

ESI Evaluation Serbia

Explanation:

In its 18 May 2009 assessments of progress in roadmap implementation by the five Western Balkan countries, the European Commission used six distinct phrases to describe progress with regard to meeting the requirement in each of the four blocks (document security; illegal migration; public order and security; external relations and fundamental rights). ESI has allocated numbers from 1 to 3, as well as colours (green, yellow, red), to these phrases and applied them to individual requirements:

Commission's assessment per block: "meets the benchmarks" and "generally meets the benchmarks", applied to an individual requirement:

"meets the benchmark" and "generally meets the benchmarks" ("1" and colour green)

Commission's assessment per block: "meets a large majority of the benchmarks" and "meets the majority of the benchmarks", applied to an individual requirement:

"meets a large majority of the various aspects of the benchmark" and "meets a majority of the various aspects of the benchmark" ("2" and colour yellow)

Commission's assessment per block: "on the right track, but..." and "does not yet fully meet

"on the right track, but..." and "does not yet fully meet the benchmark" ("3" and colour red)

Sources and abbreviations:

- The main source for ESI's evaluation was the 18 May 2009 assessment by the European Commission (the "Commission") of Serbia. All sentences below the title "**Commission Assessment**" are direct quotes from the 18 May 2009 assessment; the quotes are otherwise not marked and no quotation marks are used.
- On occasion the European Commission's first assessment of Serbia's progress from 24 November 2008 has been quoted. These quotes are identified as "**2008 Commission Report**".
- Especially in cases where Serbia received particularly critical evaluations by the Commission, or where particularly important visa roadmap requirements were examined, the reports of the EU National Experts were considered. Again, all information used from these reports is direct quotes and they are identified as follows: "**EU National Experts**". There is one EU expert report on Serbia's performance regarding the requirements from *block 1* of the roadmap, three reports regarding different requirements from *block 2*, three reports regarding the country's performance regarding *block 3* requirements, and one meeting report on *block 4* requirements (abbreviated in the table as "**Block 4 Meeting Report**"). While the EU experts examined the state-of-affairs as regards Blocks 1 to 3 on the ground, the Block 4 requirements were discussed in a meeting.
- In order to make reading easier, ESI has marked critical remarks by the Commission or by EU National Experts as follows: "[**criticism:**]" Sections where the reports *explicitly* requested further action from BiH are marked as: "**To do**".
- ESI has summarised its own evaluation regarding individual requirements under the heading: "**ESI evaluation**".
- In the column on the right, we estimate the time it will take to fully implement the requirement, provided the political will and resources are there:
 - Short-term** = until approx. autumn 2009
 - Mid-term** = early 2010
 - Long-term** = mid-2010 and later

No.	Roadmap requirement	Assessments	ESI's mark	Estimated time to implement
I. Requirements related to the correct implementation of the Community Visa Facilitation and Readmission Agreements				
	A. Readmission Agreement: Serbia has to take the necessary measures ensuring effective implementation of the Community Readmission Agreement (full text see roadmap)	<u>Commission Assessment:</u> “The readmission agreement between the EU and Serbia is being implemented efficiently. Serbia has signed 15 bi-lateral agreements on returns so far.”	1	
	B. Visa Facilitation Agreement: Serbia shall closely cooperate with the European Commission to support the EU Member States' implementation of the Visa Facilitation Agreement	Not evaluated in Commission Report.		
II. Requirements on Document Security, Illegal Migration, Public Order and Security and External Relations				
1	BLOCK 1: Document Security Passports/travel documents, ID cards and breeder documents	<u>General assessment of block 1 by Commission Assessment:</u> <ul style="list-style-type: none"> • “Serbia has made very good progress towards the fulfilment of the block 1 benchmarks in the last year.” (p. 1) • “It appears that Serbia generally meet the benchmarks set under Block 1 of the roadmap.” (p. 1) • However, “further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.” (p. 1) 	1-	

1.1	<p>Serbia should:</p> <ul style="list-style-type: none"> • issue machine readable biometric travel documents in compliance with ICAO and EC standards; and gradually introduce biometric data, including photo and fingerprints; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “As of 30 April 2009, 504 225 new biometric passports and 527 362 ID cards had been issued according to the Serbian authorities.” • “The current personalisation system has a theoretical output capacity of 150 passports per hour. In order to meet the deadline of phasing out all old travel documents by December 2009, plans exist to improve output capacity.” • “Security specifications of new biometric passports and ID documents were found to be in line with ICAO and EU standards, and fingerprints are used as a secondary biometric identifier.” • [criticism:] “Border Crossing Points (BCPs) do not possess equipment necessary for the gathering of data from biometric chips.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia appears to be compliant with this requirement. 	1-	
1.2	<ul style="list-style-type: none"> • adopt and implement administrative measures ensuring the integrity and security of the personalisation and distribution process; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The personalisation and distribution processes were found to be efficient and secure.” • “Applicants must deposit applications in person at one of the 340 police enrolment stations where biometric identifiers are recorded and electronically transmitted to central level. Personalisation is centralised within a secure facility of the Mol in Belgrade, and the whole process is fully automated. Staff work according to a shift system and have clearly designated roles, with sectionalised access authentication applicable for all employees. Blank documents and ID cards are stored in a single common safe, and stocks are checked daily.” • “The distribution centre is secure and pickups of personalised documents are closely monitored by video surveillance and security officers. Distribution itself is conducted by authorised police couriers. Documents are issued to applicants in person following a verification of their biometric identifiers.” • “Staff responsible for personalisation is carefully selected and trained. Additional staff will be recruited during 2009 as part of plans to increase travel document production capacity.” • “Serbia delivers passports to persons residing in Kosovo, as these are considered by Serbia as its own citizens. So far, the number of persons living in Kosovo who acquired a Serbian passport is low (7141, of which 1520 ethnic Albanians). <i>However, future developments are difficult to assess.</i>” 	1	

		<p><u>EU National Expert (Duquesnel and others):</u></p> <ul style="list-style-type: none"> • [ESI Remark: issuing of documents to citizens outside of Serbia should not to be confused with Kosovars who Serbia considers citizens inside Serbia] • “The procedure for the issue of these documents, including for Serbian citizens residing abroad, appears reliable and secure.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia appears to be compliant with this requirement. 		
1.3	<ul style="list-style-type: none"> • establish training programmes and adopt ethical codes on anti-corruption targeting the officials of any public authority that deal with visas, passports; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The Ethical Code for police officers dealing with visas and travel documents has been adopted and a draft training programme has been developed and will be implemented in 2009.” • “Decisive action has been taken in fighting corruption in the administration, leading to the arrest of 211 officers and the imposition of 467 sanctions in 2008.” • To do: “Further efforts are needed to implement targeted anti-corruption measures for staff engaged in travel document issuance and to carry out necessary and planned training activities.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia has not yet fulfilled the requirements, but, in principle, could be compliant with relatively little effort. 	2	Short to mid-term
1.4	<ul style="list-style-type: none"> • report to Interpol/LASP data base on lost and stolen passports; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “Regarding reporting on lost and stolen passports to Interpol, the MoI is currently developing a project to link the police network with the Interpol 1-24/7 INSYST system to allow real-time electronic reporting. In 2008, 69,248 documents were reported to Interpol as lost or stolen by the Serbian authorities.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia is expected to be fully compliant in the near future. 	1-	
1.5	<ul style="list-style-type: none"> • ensure a high level of security of breeder 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • To do: “Further efforts are required to strengthen the civil registry system.” 	3+	Mid-term

	<p>documents and ID cards and define and implement strict procedures surrounding their issuance.</p>	<ul style="list-style-type: none"> • [criticism:] “Some local registration offices lack equipment and premises required to guarantee strict control of access to birth and citizenship registers, and storage of local registers on networked electronic media is not widespread.” • To do: “The security level of certificates is to be strengthened.” • To do: “Further efforts are needed to restrict access to blank certificates, to complete forms in a standardised manner and to monitor the number of issued certificates.” • “The new Law on Civil Registries was adopted on 19 March 2009 and the Ministry for Public Affairs has announced plans aimed at modernising and securing infrastructure and registry storage.” • [positive:] “Breeder document security is nevertheless strengthened by the PIN system and the existence of an electronic citizen's central database. The unique PIN which is recorded in the national citizens' database and in local civil registries appears on all issued certificates and travel documents.” • Kosovo: “Registries of Serbian citizens residing in Kosovo are held at special civil registry centres within Serbia designated by a 2003 law. At the special civil registry centre in Nis, which covers six municipalities in Kosovo (including Pristina), secure storage of registries is rendered problematic centre by the inadequate facilities in this centre. A recovery procedure is followed for the reconstruction of records lost from the civil registry which involves an investigation lasting one month and ends with a decision by the Head of Administration of the civil registry. Further verification is necessary concerning the issuing of breeder documents to persons residing in Kosovo and the integrity and security of the procedures followed.” • “The basis for issuing passports to Kosovo residents are old civil registries which have been transferred by Serbian authorities to the territory of Serbia proper. Where old registers are not complete, Serbia has a specific procedure for establishing the citizenship of a person, which can be done for example through the presentation of birth certificates and other similar documents or copies thereof. The security level of this procedure is rather low.” <p>EU National Expert (Duquesnel and others):</p> <ul style="list-style-type: none"> • Procedures regarding Kosovar citizens / residents: “[Lodging of the application and registering of biometric data] Citizens residing in Kosovo must report to specific police stations. The applicant must be present at the time of the application for the handing in of the photo, and the taking of fingerprints and the signature.” “The whole set of data is immediately transferred to the electronic application file.” “The transmission is protected (use of the VPN of MoI), the data are encrypted and the authenticity 	<p>Duquesnel and others: “<i>The overall programme for the modernization of the civil registry announced by the Ministry for the Public Affairs should make it possible in the medium term to ensure proper reliability of the data of the civil registry and of the breeder documents issued. In particular this should be the case with the implementation of a national database system, and of a new regulatory framework.</i>”</p>
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		<p>and protection of the data are guaranteed by means of a digital signature.”</p> <ul style="list-style-type: none"> • Civil registry information and certificates: “In 2003 the government adopted a law creating several civil registry centres, each one being competent for a particular part of Kosovan territory. These centres are supposed to have all the civil registers of their jurisdiction up to the year 1999. However, some registers have disappeared, necessitating the implementation of recovery procedures.” • “When they need to declare events in relation to civil registration or in order to apply for a certificate, the residents of Kosovo can come directly to the centre on which they depend. They may also apply to special offices established in Kosovo and which forward citizens' requests to the official centres of civil registry in charge of the management of the residents of Kosovo.” • “The centre of Nis is already saturated, and the storage of the registers is becoming difficult. The records of the certificates issued are not kept in this centre. The distance between the official centres, the existence of an intermediate level for the recording of the civil registry data and/or the issue of certificates make it difficult to check the authenticity of the documents presented by these citizens.” • “The translation of Albanian citizens' civil registry data from the Albanian language into Serbian language leads to a large number of mistakes.” • “It has to be kept in mind that there is no procedure to check whether a resident in Kosovo already holds Kosovo identity documents (national card and/or passport) under a different identity.” • Concerning ID documents: “There are no specific rules and statistics relating to applications from citizens residing in Kosovo.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The civil registry system remains problematic in Serbia. The greatest problems relate to the civil registry documents of Kosovo residents. Here there is significant room for abuse and mistakes. 		
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2	BLOCK 2: Illegal migration, including readmission	<p><u>General assessment of block 2 by the Commission:</u></p> <ul style="list-style-type: none"> • “Serbia has made significant progress in the fields of border management, asylum and migration.”(p. 5) • “It appears that <u>Serbia meets a large majority of the benchmarks set under Block 2 of the roadmap. Further verification is necessary on the implementation of the Law on Foreigners and effective cooperation between different authorities at the boundary line with Kosovo needs to be ensured.</u>” (p. 5) 	2+	
2.1	Border management			
2.1.1	<p>Serbia should:</p> <ul style="list-style-type: none"> • adopt and implement legislation governing the movement of persons at the external borders, as well as law on the organisation of the border authorities and their functions in accordance with the Serbian National Integrated Border Management Strategy adopted in January 2006; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The new Law on State Border Protection has been in force since November 2008, and a one-year deadline was set for adoption of secondary legislation. The law is broadly in line with European standards.” • [criticism:] “However, concepts and definitions used in legislation and strategy papers are not fully comparable with EU terminology.” • “The Border Police is organised in line with EU standards and has a centralised command structure.” • “Regarding inter-agency cooperation, in February 2009 a Cooperation Agreement between the main ministries involved in border management was signed.” • To do: “However, Memoranda of Understanding between these state agencies [...] should be signed as soon as possible. In practice, cooperation between the Border Police and other law enforcement authorities is already relatively efficient.” • “Currently 3,300 Border Police posts are manned and the staffing level is 83%.” [...] • To do: “The Mol should be provided with sufficient funding to increase the staffing level and to raise salaries for border police officers in line with those of other police officers.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The legal framework is up to standards, as well as the organisation of the border police force. Staffing levels and salaries need to be increased. 	2+	
2.1.2	<ul style="list-style-type: none"> • take necessary budgetary and other administrative 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • To do: “The authorities must ensure that sufficient financial resources are made available for the 	2	Serbia is likely to

	<p>measures ensuring efficient infrastructure, equipments, IT technology at the external borders;</p>	<p>implementation of new legislation and implementing measures [in particular regarding the Law State Border Protection].”</p> <ul style="list-style-type: none"> • To do: “MoI needs more funding to hire more border police officers and raise their salaries.” (see previous section) • “The border surveillance system suffers from staffing shortages of Border Police Stations and a lack of technical equipment. Although the number of terrain vehicles and patrol boats is adequate, alarm and surveillance systems are currently unavailable, and sniffer dogs are not used.” • “Infrastructure at Serbia's 82 BCPs is improving even if further efforts are required. [...]Several BCPs still require appropriate premises for conducting compulsory entrance and exit checks.” • “Availability of technical equipment varies between BCPs. 14 high-risk BCPs possess docubox, and by May 2009 10 BCPs will be equipped with electronic passport readers. The TETRA police radio system is operational in Belgrade and along the Hungarian border. BCPs lack equipment able to detect smuggled migrants in vehicles (carbon dioxide detectors, sniffer dogs etc.)” • “Currently 26 BCPs are fully connected with the single informational system of the MoI, and a plan exists to extend connection to 22 further BCPs by the end of 2009.” • To do: “Regarding training programmes, basic training for the Border Police has to be improved.” • To do: “The development of a dedicated curriculum for the Border Police following a restructuring of the general police training system in 2008 should be finalised as soon as possible.” • “Further efforts are also required to organise more specialised trainings and target beneficiaries according to a training strategy. Until now, specialised trainings have generally been organised by international donors on an ad hoc basis.” • [criticism:] “Handbooks for the border police are not yet available and are still being drafted with OSCE support.” <ul style="list-style-type: none"> • Cross-border cooperation: “Cross-border cooperation with neighbouring countries on border management functions efficiently and several bi-lateral agreements have been signed.” • Kosovo: “Checks at the boundary line with Kosovo are conducted by the general police and not the border police. Cooperation between relevant authorities in policing the boundary line is under-developed and controls at official boundary points are very limited, in particular in the North of Kosovo. Formal steps should be taken to strengthen surveillance and improve exchange of information with EULEX/Kosovo police including by the conclusion of ad hoc working arrangements.” 		<p>make significant improvements within the</p> <p><i>short to mid-term</i></p> <p>However, clarifying and improving the situation regarding the border with Kosovo can take a very long time.</p>
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	<p><u>EU National Expert (Manguerra and Rytkonen):</u></p> <ul style="list-style-type: none"> • Improving infrastructure of BCPs: “So far 26 BCPs have been linked with a single IT System of the Ministry of Interior, which should be anyway improved in the future. A recovery plan devoted to cover other 22 BCPs, by the end of 2009, has been approved and financed by the Government.” • “Further progress is required regarding installation of technical equipment and devices for border checks in order to provide an efficient, high and uniformed level of control at all BCPs. The current situation will be shortly improved since 450 scanners and 660 passport reader machines (i.e. 330 fix and 330 mobile) are under installation process which has been prioritised in accordance with MUP’s Risk assessment.” • “Joint checks of vehicles – container trucks, lorry, vans, etc – with Customs are still lacking. It would be highly recommended to enhance the capacity of sniffer dogs units at the BCPs, which seems to be not sufficient enough for the need of detecting people and goods smuggled in vehicles.” • “Techniques used for border surveillance seems to be sufficient and in place. However, personnel and especially surveillance systems as well as devices are still lacking and further financial assistance is need. “ • Illegal migration through Kosovo: “Currently the main route of illegal migration is via ‘Corridor 10’. Illegal migrants are entering into Serbia mainly from FYROM and from Bulgaria towards Hungary or towards Croatia; while a significant flow of illegal migrants are coming also from the Kosovo area across the so called ‘administrative line’.” • BCPs: “Due to the fact, that Serbia is not recognizing Kosovo as an independent country, demarcation of the border has not been done and checks at the Kosovo administrative line are not under the responsibility of the Border Police.” • “In fact, checks are carried out by general police. At the check points Customs is present. Border surveillance is carried out by Army together with Gendarmerie, and with the assistance also of the so-called ethnic police. ...” • “Check points are equipped with fax and telephone lines. For performing control on identity of persons, computers linked to the national databases are available too. Vehicles, as well as cabins and boots, are normally checked and number plates are checked against ‘black list’.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Problems with equipment and adequate technical infrastructure persist, as well as problems with insufficient training of border police. A further problem is represented by the fact that Serbia’s border with Kosovo is controlled by Army together with Gendarmerie. 		
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2.1.3	<ul style="list-style-type: none"> establish training programmes and adopt ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “The current basis for anti-corruption measures is the general Code of Police Ethics of October 2006. A specific code of ethics for the Border Police is not yet available but is currently being drafted.” <p><u>EU National Expert (Manguerra and Rytkonen):</u></p> <ul style="list-style-type: none"> “Even though corruption is still a concern of the Serbian authorities, endorsement of good governance, transparency and accountability in public administration is already showing signs of improvement especially in pursuing criminal behaviour within the Police Administration.” “In October 2006, a Code of Police Ethics has been approved but a specific one for Border Police including instructions for its implementation is still being under drafting.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> The development is generally positive. Corruption however, remains a problem and a specific code of ethics for the Border Police is still missing. 	2	Short to mid-term
2.1.4	<ul style="list-style-type: none"> conclude a working arrangement with FRONTEX. 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “A Working Agreement with FRONTEX has now been signed.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Serbia complies with this requirement. 	1	
2.2	Carriers' responsibility			
2.2.1	<ul style="list-style-type: none"> Serbia should adopt and implement legislation on carriers' responsibility defining sanctions 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “Provisions on carriers' obligations and sanctions for infringements are also provided by the Law on Foreigners (Article 22).” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Serbia complies with this requirement. 	1	
2.3	Asylum policy			

2.3.1	Serbia should: <ul style="list-style-type: none"> adopt and implement legislation in the area of asylum in line with international standards (1951 Geneva Convention with New York Protocol) and the EU legal framework and standards; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “The new Law on Asylum was adopted in November 2007 and entered into force in April 2008.” “Implementation of the Law on Asylum is progressing and the asylum system is fully functional.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Serbia complies with this requirement. 	1	
2.3.2	<ul style="list-style-type: none"> provide adequate infrastructure and strengthen responsible bodies, in particular in the area of asylum procedures and reception of asylum seekers. 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “Institutions responsible for asylum are well structured and organised.” “As the Asylum Office foreseen by the Law on Asylum has not yet been formally created, currently asylum claims are processed by an asylum unit within the Border Police. The unit employs five persons and is adequately staffed for current needs. Employees were found to be well-informed on national and international asylum legislation, and trainings have been held on the content of the new Asylum Law and on International refugee law issues.” “From April to December 2008, 52 asylum applications were lodged to the Serbian authorities.” “Asylum seekers and refugees are accommodated in the reception centre in Banja Koviljaca. Management of the centre was handed over from UNHCR to the Serbian authorities (Commissariat for Refugees) in December 2008.” “The capacity of the centre is 80, and facilities were found to be adequate. Staff was found to be experienced and professional, and access to all basic socio-economic rights and benefits is provided.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Serbia appears to have fulfilled this requirement. 	1	
2.4	Migration management			
2.4.1	Serbia should: <ul style="list-style-type: none"> set up and start to apply a mechanism for the monitoring of migration flows, defining a regularly updated migration profile 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “Significant progress has been made concerning the legislative framework for migration management.” “The Law on Foreigners has been in force since 1st April 2009 and is largely in compliance with the EU <i>acquis</i>. [...] A 6-month deadline has been established for adoption of 16 by-laws and 	2	Mid-term (I believe that’s possible)

	<p>for Serbia, with data both on illegal and legal migration, and establishing bodies responsible for collection and analysis of data on migration stocks and flows;</p>	<p>regulations required for implementation of the Law on Foreigners. [...] The structures for implementation of the new law are in place.”</p> <ul style="list-style-type: none"> • [criticism:] “The harmonization of pre-existing legislation with the law (in particular the law regulating employment of foreigners) is still pending and should be considered as a priority.” • To do: “Correct implementation will also require improved coordination of all authorities with an operational role in the migration field.” • To do: “The adoption of the Migration Management Strategy currently under preparation by the Commissariat for Refugees which aims to clearly define competences of relevant bodies remains a priority.” • To do: “Significant efforts are required to improve monitoring of migration flows. An overall strategy on data collection and analysis has not been developed, and existing databases are separated between ministries.” • “The system for monitoring illegal migration flows is relatively efficient.” • “Improvements should be brought about by the new Law of Foreigners which foresees the establishment of sixteen electronic databases on migration statistics to be kept by the Mol in cooperation with the Ministry of Foreign Affairs. It should be ensured that these databases are accessible to all interested ministries.” • To do: “Increased cooperation between the Statistical Office and line Ministries in analysing migration data should be a future priority.” • “An updated migration profile was produced by IOM in 2008.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The completion of the requirement is clearly possible in the mid-term. However, there is still a relatively long to do-list. 		
2.4.2	<ul style="list-style-type: none"> • adopt and implement a National Returnee Reintegration Strategy, including sustainable financial and social support; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The National Strategy for the Reintegration of Returnees from Readmission has been adopted on 13 February 2009 and an Implementation Team, including representatives of all line Ministries involved, is established. • “The accompanying Action Plan was adopted in April 2009.” <ul style="list-style-type: none"> • To do: “Financial resources necessary for implementation of the strategy should also be made available.” 	2	Mid-term

		<p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Implementation is still in its initial phase as the Action Plan was only recently adopted. It is not clear whether adequate financial resources will be made available. 		
2.4.3	<ul style="list-style-type: none"> define and apply methodology for inland detection and take measures improving the capacity to investigate cases of organised facilitated illegal migration; 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “Regarding the administrative structures and methodologies to deal with <u>detection and investigation of illegal migration, a detailed by-law has been drafted.</u>” “Furthermore, a <u>Strategy on combating trafficking in human beings has been adopted</u> and a <u>Strategy on combating illegal migration is currently being drafted.</u> Further assessment of these strategies will be required in the future.” “Several authorities are dealing with illegal migration: specialized sections within the Border Police Administration and the Criminal Police Directorate are responsible for good coordination with the police secretariats on the local level.” [criticism:] “However, there is a lack of staff at every level, especially at the local one.” [criticism:] “Teams at central level for combating trafficking in human beings consist of only 10 police officers in total. In addition, budgetary problems may hamper the full implementation of the necessary activities foreseen by the aforementioned Strategies.” “Inland detection is conducted using special investigative techniques on the basis of risk analysis prepared by the Criminal Intelligence Unit within the Mol.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> The legal framework is almost complete; remaining necessary legislation is now being drafted; the greatest problem is serious shortages in qualified staff. 	2	Mid- to long term
2.4.4	<ul style="list-style-type: none"> adopt and implement a law on the admission and stay of third country nationals, defining rights and obligations for the persons concerned (including family members of third country nationals); 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “The Law on Foreigners has been in force since 1st April 2009 and is largely in compliance with the EU <i>acquis</i>. [...] A 6-month deadline has been established for adoption of 16 by-laws and regulations required for implementation of the Law on Foreigners. [...] The structures for implementation of the new law are in place.” “The harmonization of pre-existing legislation with the law (in particular the law regulating employment of foreigners) is still pending and should be considered as a priority.” “Correct implementation will also require improved coordination of all authorities with an operational role in the migration field.” 	2	

		<p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> The basic legal framework is sufficient. The drafting of bylaws and further harmonisation of existing legislation is, however, still necessary. 		
2.4.5	<ul style="list-style-type: none"> ensure effective expulsion of illegally residing third country nationals from its territory. 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “<u>Expulsion</u> of illegally residing third country nationals is regulated by the new Law on Foreigners which <u>is in line with European standards.</u>” [...] “Further monitoring will be required to assess the efficiency of return procedures introduced by the new law.” To do: “Regarding the Reception Centre for foreigners, the building and accommodation is below standard and it requires modernisation. At the beginning of March 2009 8 persons in total were held there although the centre has a capacity for 140 persons.” <p><u>EU National Expert (Grammatikopoulou and Milek):</u></p> <ul style="list-style-type: none"> Reception Centre for Foreigners: “At the beginning of March 2009 only 8 persons in total were accommodated in the Reception Centre for Foreigners (capacity 140 persons, in 2008 there were 239 persons in total).” “It was built during the time of the Socialist Federal Republic of Yugoslavia. Therefore, it is not surprising that the building and the equipment is outdated and needs to be refurbished or rebuilt.” “There seems to be a lack of funds. Because there have been some complaints in the past, the Red Cross is supporting the Centre in hygiene issues and some improvements (i.e.new bathrooms) already have been put into practice.” “Our interlocutors pointed out that there are negotiations with the UNCHR to achieve further improvements of the living conditions in the Centre. Therefore, the conditions in the Centre should be monitored carefully and regularly in the long term”. [ESI comment: the report gives no reasons given for the low number of residents.] <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> The legal framework regarding the expulsion of third country nationals is sufficient. The efficiency of return procedures could not be conclusively evaluated. There remain, however, concerns regarding the Reception Centre for Foreigners. 	2+	Compliance could be achieved in the mid-term

3	BLOCK 3: Public order and security	<p>General assessment of block 3 by the Commission:</p> <ul style="list-style-type: none"> • “Serbia has made substantial progress towards the fulfilment of the block 3 benchmarks.” (p. 14) • “It appears that Serbia meets the <u>majority of the benchmarks set under block 3 of the roadmap</u>. Further efforts are needed regarding implementation of the legal framework, including through allocation of adequate financial and human resources.” (p. 14) 	2-	
3.1	Preventing and fighting organised crime, terrorism and corruption			
3.1.1	<p>Serbia should:</p> <ul style="list-style-type: none"> • implement the strategy to fight organised crime (in particular cross-border aspects) by adopting and implementing an action plan including a timeframe and sufficient human and financial resources; 	<p>Commission Assessment:</p> <ul style="list-style-type: none"> • “The national strategy for the fight against organised crime was adopted on 26 March 2009 and an action plan is under preparation.” • “The institutional and administrative capacity ... of the law enforcement and judicial authorities is generally good.” • “Recent police action resulting in a number of arrests in organised crime cases shows the commitment of the Serbian authorities to tackle the issue.” • “A working group has been set up in order to revise the Criminal Procedure Code (CPC). The adoption of the new, revised CPC is foreseen by the end of 2009 and its entry into force by 1 January 2011, provided that the implementation of judicial reforms will be completed on schedule (by 1 January 2010).” • “Some deficiencies of the current framework for the fight against organised crime remain” ... • “A Commission for inter-ministerial coordination in the field of justice and home affairs was established in December 2008.” <ul style="list-style-type: none"> • To do: “It is important that ... necessary human, financial and technical resources will be ensured.” • To do: “To this end it [Commission for inter-ministerial coordination] should meet regularly and on a long-term basis.” • To do: “Effort should continue to develop the common database related to organised crime for law enforcement agencies.” • To do: “Further improvements are needed in order to collect clear and comparable statistics along all crime categories and stages of criminal procedure.” 	2-	<p>Especially due to the implementation of the new CPC <u>full</u> compliance with this requirement can only be expected in the</p> <p>Long-term</p>

		<p><u>EU National Expert (Stoleru):</u></p> <ul style="list-style-type: none"> • “Another problem that often occurs in the implementation of laws is the permanent change of the legal framework, like the Criminal Procedure Code which entered finally into force at the end of December 2008, during the preparation of the Law on Amendments and Additions to it, which is expected to be passed in March by the National Assembly. Even the permanent improvement of the laws is a progress, but modifying the provisions after only few months could create confusion in practice and difficulties to the ordinary state officials to enforce these provisions. In these cases special training is necessary for the public officials.” • “CPC and the frequent changes of laws lead to confusion.” <p><u>EU National Expert (Wenger):</u></p> <ul style="list-style-type: none"> • Criminal Procedure Code (CPC): “the new Criminal Procedure Code ... has not yet entered into force and the package of reforms of the judicial system, adopted only at the end of 2008, is yet to be implemented.” • “However, it appears that the Serbian authorities have realised that the CPC adopted in 2006 was a hasty move and have therefore set up a ...” • “A working group ... , which is mandated to draft a new and revised CPC (in accordance with the new Constitution), based on the structure of the CPC from 2001. Chaired by the MoJ, the working group comprises representatives of the MoJ, the MoI, judges and public prosecutors from all levels, as well as lawyers and university professors. Adoption of the new CPC by the Government has been scheduled for the end of 2009. Subsequently, a public debate is to take place. As to the reasons for the delay, reference was made to the need for a new legislative framework for the organisational innovations (judiciary reform and notably the implementation of the set of judicial laws adopted in December 2008). Other reasons were a certain amount of resistance offered by the bar association, several prosecutors and a number of NGOs.” • “The new and revised CPC should enter into force by 1 January 2011. By 1 January 2010, the establishment of the “State Prosecutorial Council” and the “High Judicial Council” as well as all the appointments of the new judges and prosecutors is foreseen to be completed, which will allow for the implementation of the new CPC to start. This poses a challenge for the Serbian authorities, as new situations bring uncertainty and many judges and prosecutors are affected by the changes.” • Regarding legal framework: “important legal changes have been adopted, but the legal framework remains incompatible; the main reason is the [bad] CPC.” • “Problems of strategic planning: partly incompatible statistics make it difficult to get precise 		
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		<p>understanding of actual situation.”</p> <ul style="list-style-type: none"> • [problems with infrastructure; equipment; access to relevant databases lead to problems with inter-agency cooperation] • ESI comment on convictions: the <i>Wenger</i> report gives no precise data on organised crime related convictions • In contrast the <i>Stoleru</i> report gives some information on corruption related convictions (in Stoleru report) • The Folgado report (financial crimes) gives some statistics of investigations and convictions. The information provided in the report is, however, confusing and contradictory <p>ESI evaluation:</p> <ul style="list-style-type: none"> • Capacities generally appear to be good, the list of outstanding activities is, however, long. A fully compatible legal framework (CPC) is still a long way from now. 		
3.1.2	<ul style="list-style-type: none"> • implement the strategy to combat trafficking in human beings by adopting and implementing an action plan including a timeframe and sufficient human and financial resources; 	<p>Commission Assessment:</p> <ul style="list-style-type: none"> • “The action plan to implement the Strategy to combat trafficking in human beings for the period 2009-2011 has been adopted ... on 30 April 2009.” • “The law on the ratification of the Council of Europe Convention on Action against trafficking in human beings was adopted by Parliament in March 2009.” • “Council to combat trafficking in human beings and National Coordinator for the fights against trafficking in human beings appointed.” • “Police operations in the fight against trafficking in human beings are coordinated by the Department for the Suppression of Cross-Border Crime. ...” • “The Service for the Coordination of protection of victims of trafficking in human beings was established in 2004 and is the key body in this field. “ • “The two accommodation centres and the victim reintegration programmes are run by NGOs.” <p>• To do: “Additional consideration should be given to the availability of the necessary budgetary and human resources for the implementation of the action plan.”</p> <p>• To do: [Council of Europe convention] “should be transposed into the national law as soon as possible.”</p> <p>• To do: “Additional human resources would, however, be necessary to ensure the National</p>	2	Short- to mid-term

		<p>Coordinator is able to carry out the full scale of his tasks efficiently.”</p> <ul style="list-style-type: none"> • To do: “In order to ensure the effectiveness of this framework for victim protection, the staff of the Coordination Service should be increased and additional funding made available for the provision of services by NGOs.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The essentials and the general framework are there. While the general capabilities (in terms of institutional structure and knowhow) appear to be also sufficient, a number of further measures still need to be taken in the field of human resources, transposition of law and providing adequate budgetary means. 		
3.1.3	<ul style="list-style-type: none"> • adopt and implement a national strategy for the prevention and fighting of money laundering and financing of terrorism; adopt and implement a law on the prevention of financing of terrorism; implement relevant legislation on confiscation of assets of criminals (including the provisions addressing cross-border aspects); 	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The National Strategy against money laundering and financing of terrorism continues to be implemented.” • “The Law on the prevention and fight against money laundering and terrorist financing was adopted in March 2009, as well as some of the Laws on the ratification of international conventions.” • “The Serbian FIU is a well-established and well-functioning authority with sufficient human and technical resources.” • [criticism] “As of today, the number of investigations and convictions on money-laundering cases is very low.” • “According to the Law on the confiscation of criminal assets steps have been taken to establish the Directorate for management of seized assets. An acting Director has been appointed and the Act on the organizational structure of the Directorate has been adopted in February 2009.” • “Public procurement is ongoing to create the actual storage facility; budgetary allocations are made to this end also to ensure the recruitment of 25 staff members.” <ul style="list-style-type: none"> • To do: “Efforts should continue to make the system operational.” • To do: “‘national strategy’ should also be completed by an Action Plan.” • To do: “Reinforcement of the expertise and capacities of the criminal investigators, public prosecutors and judges is of utmost importance in order to follow-up the reports of the FIU.” • To do: “establish the Directorate for management of seized assets.” 	2+	

		<p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia progressing well with a clearly positive trajectory, but a larger number of measures still need to be undertaken; more successful investigations and convictions are also expected from the country. 	
3.1.4	<p>adopt and implement a national drug strategy and national drug action plan; make the information on drug seizures and persons involved accessible at border crossing points; further develop cooperation and information exchange with relevant international bodies in the drug field;</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The National Strategy for the fight against drugs ... was adopted ... in February 2009.” • “An action plan is under preparation ...” • “The fundamental legislative framework fighting drug crime is in place.” • “Special investigative techniques, such as secret surveillance measures and controlled deliveries, have been used successfully.” • “The Department for Drug Smuggling Suppression within the Ministry of Interior has established the database ...” • [criticism:] “This database [sic: is] not linked centrally to other databases and BCPs do not have direct access to the data.” • “The Ministry of Health serves as a focal point for cooperation with EMCDDA [European Monitoring Centre for Drugs and Drug Addiction] (project initiated in January 2008). A national team with a representative of the Ministry of the Interior has been appointed to give assistance to the focal point.” • To do: “All relevant stakeholders should be involved in the drafting of this action plan.” • To do: “though not explicitly stated in the Commission report, linking up the Department of drug smuggling database with BCPs (Border Control Points) should also be completed;” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia is very close to completion; only a few tasks are left until full compliance. 	1-
3.1.5	<p>implement legislation on preventing and fighting corruption including by establishing an independent anti-corruption agency;</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The implementation of the Law on the Anti-Corruption Agency is expected to start from 1 January 2010. ...” • “Internal control activities in all law enforcement agencies have been created and are functioning at a satisfactory level.” • “Specialised anti-corruption departments exist within the police, prosecutors' office and the 	2+

		<p>Belgrade district court and cooperation between them is at a satisfactory level.”</p> <ul style="list-style-type: none"> • [criticism:] “However, the short term of office of the specialised prosecutor and his deputies (2 years) limits their effectiveness and autonomy.” • “Special investigative techniques are increasingly used in corruption cases, but the number of final convictions for corruption crimes is still low compared to the number of opened investigations and also to the public's perception of this phenomenon.“ • To do: “The period foreseen for the preparation for the implementation (staff recruitment, facilities, equipment etc.) should be efficiently used and the powers of the agency <i>extended</i> to enable it to efficiently carry out all its tasks.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • A lot of progress has been made; the trajectory appears to be positive; however, some essential aspects are still missing (in particular effective convictions) to make the system truly functional. 		
3.1.6	implement relevant UN and Council of Europe conventions as well as GRECO recommendations and other international standards in the areas listed above and on fight against terrorism.	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The process of implementing GRECO recommendations and international conventions continued.” • To do: [GRECO] “Efforts should be maintained to complete all remaining actions.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • In spite of improvements, Serbia is not fully compliant with requirements. 	2	Not clear how long it would take. My guess is: Mid- to long-term
3.2	Judicial co-operation in criminal matters			
3.2.1	Serbia should: implement international conventions concerning judicial cooperation in criminal matters (in particular Council of Europe Conventions);	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The Law on mutual legal assistance in criminal matters that allows for the implementation of the 2nd Additional Protocol to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters was adopted in March 2009.” • To do: “For the proper implementation of the above mentioned Protocol specific training activities should be carried out for law enforcement and judicial staff in the area of international cooperation, 	1-	

		<p>such as protection of witnesses, joint-investigative teams, special investigative techniques and procedural mechanisms like hearings by telephone or videoconferences.”</p> <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia is almost fully compliant; some capacity building measures are also still necessary. 		
3.2.2	<p>take measures aimed at improving the efficiency of judicial co-operation in criminal matters of judges and prosecutors with the EU Member States and with countries in the region;</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • [criticism:] “As regards the Mutual Legal Assistance Department of the Ministry of Justice, it is not sufficiently staffed, in view of the very high and increasing number of requests.” • “The direct international contacts that have been developed with the judicial authorities of several countries had a positive effect on dealing with complex rogatory letters.” • “There has been an increase in requests for extradition in the last years, especially from neighbouring countries.” • “The new law in the field that will introduce simplified extradition procedures and reduction of some timelines is expected to increase the efficiency of the authorities when dealing with those requests.” • To do: “The shortage of human resources should be addressed to help reducing the average period for complying with rogatory letters and extradition.” <p><u>EU National Expert (Folgado):</u></p> <ul style="list-style-type: none"> • “Actually, in the expert's opinion, the main problem remains on the implementation side, taking into account that the approval of legislative instruments in different areas should not be considered sufficient and should be complemented with implementation measures. For that purpose, action plans should be established where measures for the short, medium and long term would be foreseen.” • “Regardless of the recent progress achieved, namely on the legislative side – where a number of new laws have been approved and some others are under approval –, there appears to be a lack of adequate strategic planning. Together with the implementation measures, capacity building, training and recruitment of skilled human resources should be looked at as a top priority by Serbian authorities. Training of the police and judicial authorities is still needed in different areas, for instance in the prevention and in the investigation and prosecution of economic and financial crime and other related crimes. Training of other public officials should as well be considered as an area where technical skills should be improved, for example within the Directorate for the 	1-	

		<p>Management of Confiscated Assets.”</p> <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • This requirement is to a very high degree fulfilled; the lack of adequate staff, however, impairs Serbia’s capability to live up to expectations. 		
3.2.3	develop working relations with Eurojust mainly through the Eurojust contact point.	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • The 2008 Commission report states: “As regards cooperation with Eurojust, a contact person has been appointed and the negotiations for a cooperation agreement are ongoing.” • ESI comment: There is no update on the state of the cooperation with Eurojust; <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • This requirement appears to be fulfilled, as a contact person has been appointed. 	1	
3.3	Law enforcement co-operation			
3.3.1	take necessary steps to ensure efficiency of law enforcement co-operation among relevant national agencies - especially border guards, police, customs officers -, as well as cooperation with the judicial authorities;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The drafting and adoption of the new Criminal Procedure Code is expected to be finalised by the end of 2009 and likely to come into force by 2011.” • “The Code would have several provisions aiming at more efficient exchange of information and operational cooperation among the different law enforcement bodies.” • “Currently the cooperation among the law enforcement agencies works <i>in a satisfactory manner.</i>” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Law-enforcement cooperation appears to be satisfactory; however, further improvements due to changes in legal framework (the adoption of the new CPC) only expected to take effect in 2011. 	2+	
3.3.2	improve exchange of information between national agencies by setting up an adequate coordination mechanism;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “In order to further enhance cooperation a Coordination Working Body was established in December 2008. The objective of this body that meets on a monthly basis is to improve information exchange and coordination in the areas of judiciary and law enforcement.” 	1	

		<p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> This requirement is fulfilled; however, it remains to be seen how the relatively new coordination body will actually work. 		
3.3.3	reinforce regional law enforcement co-operation and implement bilateral and multilateral operational cooperation agreements, including by sharing on time relevant information with competent law enforcement authorities of EU Member States;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “International cooperation, for example through the network of police liaison officers placed in the country, work in an efficient manner; at borders cooperation with neighbouring countries is also satisfactory.” To do: “Such cooperation is often carried out on informal basis and a formal channel to deal with international operational cooperation request should be reinforced.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> Cooperation functions satisfactorily, but a further formalisation of cooperation is still needed. 	2+	
3.3.4	improve the operational and special investigative capacity of law enforcement services to tackle more efficiently cross-border crime;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> “The use of special investigative techniques which requires prior authorisation of the investigative judge has proved successful in a number of cases.” To do: “The capacity of the police to use such techniques in the framework of criminal investigations should be further enhanced and additional training provided.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> The requirement is mostly fulfilled. Further capacity building is, however, still necessary. 	1-	
3.3.5	take the necessary steps to prepare for the conclusion of an operational cooperation agreement with Europol with special emphasis on data protection provisions.	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> To do: “Serbia should proceed with the ratification of the strategic cooperation agreement with Europol and ensure its effective implementation.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> According to Commission reports, Serbia was still only preparing for the ratification of a <i>strategic cooperation</i> agreement. 	2-	Mid- to long-term

		Things have changed in the meantime. According to recent ESI communication with Europol, Serbia ratified the Strategic Cooperation Agreement with Europol on 14 May 2009. The agreement entered into force on 16 June 2009.		
3.4	Data protection			
3.4.1	adopt necessary legislation on the protection of personal data and implement its provisions including setting-up of an independent data protection supervisory authority;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The new law on the protection of personal data now regulates the processing and use of personal data.” • “The existing independent authority established by the Law on Free Access to Information of Public Importance from 2004 under the name the Commissioner for Information of Public Importance assumed new powers and competences and, in addition to the protection of freedom to access to information, it now also deals with personal data protection.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The requirement appears to be fulfilled. 	1	
3.4.2	sign, ratify and implement relevant international conventions, such as the Additional Protocol of the Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • [ESI remark: The requirement is not specifically mentioned in the Commission assessment.] <p><u>Government Progress Report:</u></p> <ul style="list-style-type: none"> • “A presentation on progress regarding Judicial Reform by the Serbian Government states that the required law was adopted: “Law on Confirmation of the Additional Protocol to the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, Regarding Supervisory Authorities and Trans-Border Data Flows” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Based on the Government Progress Report this requirement appears to be fulfilled. 	1	

4	BLOCK 4: External Relations and fundamental rights	<p><u>General assessment of block 4 by the Commission:</u></p> <p><i>“Serbia has made substantial progress towards the fulfilment of the block 4 benchmarks.” P. 25</i></p> <p><i>“It appears that Serbia meets <u>a large majority of the benchmarks</u> set under Block 4 of the roadmap“</i></p>	2 +	
4.1	Freedom of movement of nationals of Serbia			
4.1.1	<p>Serbia should: ensure that freedom of movement of Serbian citizens is not subject to unjustified restrictions, including measures of a discriminatory nature, based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.]</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • 2008 Report: “The legal framework to ensure the freedom of movement ...is in place.” • 2008 Report: “The freedom of movement of Serbian citizens is guaranteed by the Constitution (2006), but may be restricted for the purpose of conducting criminal proceedings, protection of public order and prevention of spreading of contagious diseases or defence of the Republic of Serbia. • 2008 Report: “Regarding mechanisms to handle incidents and complaints, no information is given in the report, which makes it difficult to judge whether the provisions in place are sufficient to ensure freedom of movement.” • [ESI comment: No additional information in 2009 Commission report;] <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The requirement appear to be fulfilled; though it would be important to know something about how incidents are recorded and handled; 	1-	
4.2	Conditions and procedures for the issue of identity documents			
4.2.1	<p>Serbia should: ensure full and effective access to travel and identity documents for all Serbian citizens including women, children, people with</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “The access to travel and identity documents is regulated in the Law on identification card and the Law on travel documents.” • “Measures to ensure easier access to these documents to some vulnerable groups have been taken or planned. Documents are issued to disabled persons despite the inability to present the application to the Ministry in person and people belonging to national minorities can have their ID 	1-	

	<p>disabilities, people belonging to minorities and other vulnerable groups;</p>	<p>cards issued in the language of the minority to which they belong.”</p> <ul style="list-style-type: none"> • “Measures to provide travel documents in consular missions to Serbian citizens residing abroad are under preparation. The report states that legal provisions to ensure access to ID cards and travel documents to all citizens including minorities and vulnerable groups are in place.” • 2008 Report: [criticism:] “However, no further information is provided regarding these provisions. Moreover, no indication is given as to which are the most difficult target groups, or to measures targeting Roma.” • “Efforts have been made to foster registration of Roma population and facilitate their access to identity documents.” <p><u>Block 4 Meeting Report:</u></p> <ul style="list-style-type: none"> • “Efforts have been made to foster registration of Roma population and facilitate their access to identity documents.” • “SER did not present information on how many people (mainly Roma) may not have ID documents.” • [ESI remark: the Meeting Report does not differentiate between how Roma and how Kosovo Albanians receive their ID documents. The only section dealing with receiving ID documents is the following:] • “In general, citizenship should be registered in the citizenship register. Within the FYR, every republic had its own register which continued to exist after the split. In Serbia, the Ministry of Interior is supervising registry books, which also have been transferred to an IT system, increasing its reliability and limiting the scope for fraud and falsifications. The basis for issuing passports to Kosovo residents are old civil registries who have been transferred by Serbian authorities to the territory of Serbia proper. Where old registers are not complete, Serbia has a specific procedure for establishing the citizenship of a person, which can be done for example through the presentation of birth certificates and other similar documents or copies thereof. The security level of this procedure is rather low.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia appears to be compliant. 		
4.2.2	<p>ensure full and effective access to identity documents for IDPs and refugees.</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • 2008 Report: “Concerning access to identity documents for refugees, the Law on refugees provides that ID cards for refugees and expelled persons are issued by the organisational unit of the Ministry of 	1	

		<p>Interior.”</p> <ul style="list-style-type: none"> • 2009 Report: “Currently, between 209.000 and 226.000 internally displaced persons live in Serbia, while only some 2.500 to 4.000 have returned to Kosovo and Metohija. At the same time, some 97.000 refugees reside in Serbia.” • “Integration of these persons shows positive results. Serbia provides identity documents (IDP-cards) and the persons concerned are given the possibility to acquire Serbian citizenship.” • “Some 250.000 refugees living in Serbia have acquired Serbian citizenship since 1996. For issuing identity documents, there is an accelerated procedure and the fees have been substantially reduced from 10.000 to 600 Dinar (10 € for a family). Efforts have been made to foster registration of Roma population and facilitate their access to identity documents. The number of requests from refugees and internally displaced persons for Serbian citizenship is declining.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia appears to be compliant with this requirement. 		
4.3	Citizens’ rights including protection of minorities			
4.3.1	<p>Serbia should: adopt and enforce legislation to ensure effective protection against discrimination;</p>	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • 2008 Report: “As regards anti-discrimination, it is forbidden and punishable according to the Constitution to cause or encourage inequalities, hatred or intolerance, and discrimination is criminally sanctioned in numerous legal acts.” • 2009 Report: “The new anti-discrimination law was adopted by the Parliament in March 2009 and constitutes an important step forward. Its aim is to fill the current gaps in the protection against discrimination. This law covers all article 13 grounds and a wide range of sectors (employment, public services, education).” • “It establishes a new Equality Commissioner which will be appointed and report to Parliament and act as the equality body required under EC directives.” • “The burden of proof will be shifted in cases of discrimination. The institutional framework is in place with the Ministry of Human Rights and Minorities playing a central strategic and coordinating role.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia appears to be compliant with this requirement. 	1	

4.3.2	specify conditions and circumstances for acquisition of Serbian citizenship;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • [criticism:] “Citizenship legislation is broad and allows to broad categories of citizens of the former Yugoslavia with links with Serbia to obtain Serbian citizenship.” • “The basic concept for the acquisition of Serbian citizenship is descent. Citizenship can also be acquired by admission, provided that the person has resided in Serbia for at least three years and gives up his previous citizenship or that it is in the interest of Serbia. Citizens from the FYR, who have lived in Serbia for at least nine years, can acquire citizenship without losing their previous citizenship.” • “Art. 18 and 23 extend the scope of Serbian citizenship further. Art. 18 gives every person 'emigrating' from Serbia and his descendants the right to acquire Serbian citizenship. Art. 23 Para. 1 gives the same right to a "member of Serbian or another nation or ethnic group from the territory of the Republic of Serbia, who is not residing in the territory of Serbia". Para. 2 extends this right to refugees and displaced persons from the FYR residing in Serbia.” • “Agreements on dual citizenship have been concluded with Slovenia and BiH, but not yet with Croatia and Montenegro. An agreement with Montenegro seems to be difficult as Montenegro has a more restrictive approach to dual citizenship than Serbia.” <p><u>Block 4 Meeting Report:</u></p> <ul style="list-style-type: none"> • “Around 70.000 persons with another republic's citizenship and residence in Serbia have acquired Serbian citizenship in 2008. Figures of persons living in other republics who have acquired a Serbian passport are still limited. According to information provided by BiH, only some 7.000 persons from Serbia (and Montenegro) have acquired BiH citizenship under the existing agreement on dual citizenship, whereas 2322 persons from BiH have acquired Serbian citizenship under this agreement. As Serbia applies the provisions of Art. 23 and the dual citizenship agreement in parallel, the relevance of these figures is limited. • Serbia delivers passports to persons residing in Kosovo, as these are considered by Serbia as its own citizens. So far, the number of persons living in Kosovo who acquired a Serbian passport is low (7141, of which 1520 ethnic Albanians). However, future developments are difficult to assess.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The main criticism with regard to this requirement is the very broad definition of groups of individuals entitled to Serbian citizenship. 	[3+]	
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4.3.3	ensure investigation of ethnically motivated incidents by law enforcement officers in the area of freedom of movement, including cases targeting members of minorities;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “Ethnically motivated incidents affect primarily Roma, but overall remain occasional. The level of investigations by the police is in general satisfactory.” • To do: “... further efforts are necessary in the area of prosecution and court actions so that perpetrators are brought to justice.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • The situation is mostly satisfactory, but Serbia still has to prove its real political will by ensuring successful prosecution and convictions 	1-	
4.3.4	ensure that constitutional provisions on protection of minorities are observed;	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • 2008 Commission report: “There are several constitutional provisions to guarantee the protection of minorities, including the right to self-governance in the fields of culture, education, information and language, and equality in administering public affairs and representation in the National Assembly.” • 2008 Commission report: “Beyond the Constitution, protection is provided for in the Law on Protection of Rights and Freedoms of National Minorities, as well as more generic laws including in the area of education, employment and the selection of national deputies.” • 2008 Commission report: “As to the implementation of the provisions foreseen, selected statistics on the participation of members of minorities in the judicial system are given.” • [the 2009 Commission report does not mention the issue of observing constitutional provisions on the protection of minorities] <p><u>Block 4 Meeting Report:</u></p> <ul style="list-style-type: none"> • “In terms of implementation, there is little record on discrimination instances in Serbia (except for a few cases mentioned in the discussion). The institutional framework is well advanced with the Ministry of Human rights and Minorities playing a central strategic and coordinating role. The police is aware of its role in providing support to vulnerable groups and minorities and information has been provided on initiatives by the police including on supporting victims and on reaching out to minority groups. However, the police does not have special procedures to deal with discrimination cases (except in cases of violence against women).” • “There are special procedures to file complaints against police forces. The police acted in a number of cases involving homophobic acts or violence against Roma. A few courts cases have been recorded.” 	2+	

		<ul style="list-style-type: none"> • “It was mentioned that other institutions such as the Ombudsman, the labour inspectorate, the ministry of human rights are competent to act in their respective fields (but no data are available on the number of cases). Brochures in minority languages on police services are distributed in areas with minority population. Minorities have access to IDs and passports (including writing their name in their language).” • “Serbia has provided information on all the above issues - however there are some areas where further information needs to be provided, e.g. on ethnically motivated incidents (where only some examples were presented where the action of the authorities was in line with European standards).” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • It is difficult to assess fulfilment of this requirement; the basics appear to be there. However, a full official buy-in might be a problem. 		
4.3.5	implement relevant policies regarding minorities, including Roma.	<p><u>Commission Assessment:</u></p> <ul style="list-style-type: none"> • “A National Strategy for improvement of the situation of Roma has been adopted.” • “There is no single budget line for this strategy, but each line ministry concerned is expected to allocate available funds in its area of responsibility. The current demolition of settlements, which will not be legalised, without providing appropriate housing in other locations raises some doubts as regards the will and ability to fully implement the objectives of the strategy and related action plans in the area of housing.” • To do: “The general living conditions of Roma remain precarious and should be further improved.” <p><u>ESI evaluation:</u></p> <ul style="list-style-type: none"> • Serbia shows a high degree of formal compliance; however, improvements in living conditions of Roma are necessary, but doubts remain regarding political will and buy-in to implement changes. 	2+	