

Relations EU/Western Balkan countries: partnerships in the framework of the stabilisation and the association process

2003/0267(CNS) - 12/04/2005 - Follow-up document

The Stabilisation and Association process (SAP), which was confirmed at the Thessaloniki Summit in June 2003 as the European Union's policy framework for South Eastern Europe until accession to the EU, provides for the establishment of the Stabilisation and Association Agreements (SAA). This Communication assesses whether Serbia and Montenegro has progressed sufficiently in meeting the SAP political and economic criteria and in developing the capacity to negotiate meaningfully and subsequently implement successfully such an agreement.

The paper begins by discussing current relations between the European Union and Serbia and Montenegro, and describes the twin-track approach in the Stabilisation and Association process, the approach being a response to the complex institutional structure and division of competences between the State Union and the two constituent Republics. It makes it clear that the twin-track approach does not prejudge the future of the State Union. The Constitutional Charter includes a clause whereby each Republic has the right to withdraw from the State Union. This clause features a clear time indication: the relevant proceedings can be initiated only after the expiry of a three-year period commencing from the adoption of the Charter in February 2003. Such a withdrawal would be subject to a referendum held in the Republic invoking the clause. The existence of this option is not 'per se' an obstacle to progress towards contractual relations with Serbia and Montenegro under the twin-track approach. It will, however, require a constructive attitude and strong political commitment on all sides to ensure Serbia and Montenegro's capacity to engage in negotiations to establish contractual relations with the EU.

The paper goes on to discuss the current status of Kosovo and states that an SAA with Serbia and Montenegro cannot apply to Kosovo. Therefore this Feasibility Study does not assess the situation in Kosovo. Regardless of the conclusion of an SAA with Serbia and Montenegro, Kosovo will continue to benefit from the various instruments of the SAP. Kosovo is currently covered by the various basic elements of the SAP (trade preferences, EC assistance and reform dialogue).

The Commission then makes an assessment of the political criteria, the economic criteria, and the ability to assume the obligations resulting from an SAA. Its overall conclusions are as follows.

Since the fall of the Milosevic regime, Serbia and Montenegro has progressed significantly in the SAP political and economic criteria and in developing the capacity to negotiate and implement a Stabilisation and Association Agreement. The reform process remains fragile, however, particularly because of the legacy of the past regime. The Commission considers that Serbia and Montenegro is sufficiently prepared to negotiate an SAA. Therefore, the Commission recommends to the Council the opening of negotiations and will accordingly present a draft mandate. However, Serbia and Montenegro needs to continue, in a sustained way, its preparation as outlined in the Communication with a view to the negotiations. In particular, the Republics of Serbia and Montenegro need to provide the Commission with a clear description of their respective trade regimes in full respect of the standstill clause in the Autonomous Trade Measures. The described levels of trade protection will form the basis for the negotiation of the liberalisation schedule. In order to progress through the various stages of the process Serbia and Montenegro must continue to co-operate with the ICTY, and achieve full cooperation without delay. The State Union and the two Republics should continue to implement the European Partnership priorities through its Action Plan.

The pace at which a country draws closer to the EU depends essentially on its speed in adopting and implementing the necessary reforms. Continued focus by the authorities on European integration is, therefore, key to the sustainability of the process. In line with the European Partnership, the authorities should pay special attention to, and make further significant progress concerning, the following issues

that are particularly relevant for an SAA:

- with regard to constitutional issues, the common understanding of Serbia and Montenegro's authorities at the level of the State Union and of the Republics on the Constitutional Charter and in particular on the distribution of powers enshrined in the Constitutional Charter should be followed by consistent and constructive implementation. The State Union level and the two Republics need to further coordinate their efforts to benefit fully from the twin-track approach in negotiating an SAA. The revision of the Constitutions of the two Republics needs to proceed smoothly and in line with European standards;
- the democratic functioning of the parliaments and executives needs to be strengthened. The role of European Integration structures at the administrative, governmental and parliamentary levels needs to be reinforced so that the compatibility of legislation with EU norms is more systematically ensured;
- as regards human rights and the protection of the minorities, continued concerted efforts need to be made, notably as concerns the situation of internally displaced persons and refugees;
- sustained efforts must be made to reform the public administration, to ensure budgetary sustainability and develop a stable, professional and independent civil service, in particular in Montenegro. Both Republics must fully commit themselves to sustaining legal and economic reforms and strengthening administrative capacity particularly competition, intellectual property rights, public procurement, customs and taxation. Both Republics need to pursue with determination the reform of the judiciary as well as of the police and security services. The fight against organised crime and corruption must be stepped up and it should deliver concrete results;
- there is a need for further clarification of the articulation of competences in practice between the State Union and the Republics in a number of areas including intellectual property rights, standardisation, visa, asylum, migration and integrated border management.

Should the Commission note at any time that the State Union and republican authorities have not lived up to their commitments and have not satisfactorily addressed the issues highlighted in this Communication, it will propose to the Council that the negotiations be suspended.