

1989-2009: FROM EXCLUSION TO INTEGRATION

(case of Serbia)

Vladimir PAVIĆEVIĆ

The fall of the Berlin Wall in 1989 marked in the countries of Central and Eastern Europe the beginning of transformation of their economic, legal and political systems into modern communities based on market-oriented economy, the rule of law and political pluralism. Orientation to new values was clearly determined and inspired by the idea of membership in the European Community (EC), meant to ensure the ultimate unification of the two parts of the European continent which had been divided by an impenetrable wall over half a century.

Out of all communist states in Europe, in 1989, the European prospects were the brightest for the then Yugoslavia (Socialist Federal Republic of Yugoslavia), which consisted of the six federal units (Serbia, Croatia, Bosnia and Herzegovina, Macedonia, Slovenia and Montenegro) and two autonomous provinces (Kosovo and Vojvodina). The two autonomous provinces were within Serbia, in administrative terms, but were represented in the federal institutions and decision-making processes. Unlike other countries of Central and Eastern Europe, which set the EU accession after the fall of communism as their priority albeit quite a distant goal, in former Yugoslavia mounting ethnic tensions resulted in armed conflicts and dissolution of the country, while the European future of what used to be a joint country was relegated to the bottom of the agenda. It did not become a political priority of its successors until after the wars ended.

Out of all countries created in the territory of the former Yugoslavia, only Slovenia became the full member of the European Union, in 2004, while other countries are standing in the vestibule, the waiting room for Europe. Croatia has a candidate status; that country has opened negotiations on its full EU membership and their completion is expected in the course of 2010. Macedonia, despite its problems, was granted EU

candidate status in 2005 and is getting prepared for the commencement of accession negotiations. Montenegro presented its official application for EU membership in December 2008 and expects to get candidate status in the course of 2010. Albania and Bosnia and Herzegovina signed Stabilization and Association Agreements and are now waiting for an opportunity to present an official application for EU membership and get a candidate status as the next step.

Following a change in 2000, which began with ousting Slobodan Milošević from power, the status of Serbia's European integration continues to be uncertain. Serbia signed a Stabilization and Association Agreement, although there has been no implementation of the SAA provisions yet over insufficient level of Serbia's cooperation with the Tribunal in The Hague. This was how Serbia, amid the European integration process, came down to the bottom of the list of the West Balkan states, ranking behind Croatia, Macedonia, Montenegro, Albania and Bosnia and Herzegovina.

The European integration process in Serbia was slowed down even more after the Assembly of Kosovo decided on 17 February, 2008, to declare Kosovo's independence. Serbian reaction to Kosovo's declaration of independence was put before the discussion about Serbia's European prospects, which consequently called Serbia's integration into the European Union into question.

Serbia's bad position in the formal process of association with and accession to the European Union confronts us with two key political obstacles which slow down Serbia's meaningful inclusion in the European integration processes:

- (1) unsuccessful definition of Serbia's state borders, and
- (2) Serbia's insufficient cooperation with the International Criminal Tribunal for the Former Yugoslavia.

The need on the part of the present-day elites in Serbia to prolong the crisis caused by the dissolution of Yugoslavia and to keep the state border issue open gets right to the core of the first obstacle. This position, maintained by the elites in power, is

manifested in the politics pursued towards Bosnia and Herzegovina, and previously in the attitude towards Kosovo. The assessment of insufficient cooperation with the International Criminal Court for the Former Yugoslavia refers primarily to the failure to locate and apprehend Ratko Mladić, and also to the absence of the will to come face-to-face with the crimes committed in the past.

The picture of an isolated country, excluded from most of international forums portrayed Serbia from 1990s. But Serbia moved into the new century with the idea of turning from the main disturber in the West Balkans to a reliable partner. As soon as the new politics got a chance, Serbia experienced the greatest shock in the first decade of the 21st century: in the early March 2003, the first democratically elected Prime Minister of Serbia, Zoran Djindjic, was assassinated. Zoran Djindjic was assassinated by a member of the Interior Ministry of Serbia who also belonged to a criminal group formed during Milosevic's rule, which maintained some important footholds in the state authorities after a democratic change. It turned out soon that the Djindjic assassination blocked Serbia's attempt to turn from the disturbing factor to a country fully integrated into the European mainstream.

Return of Serbia to the vision of the late Prime Minister Djindjic implies a change in politics in several respects.

One of the most important changes concerns a shift in Serbia's policy towards its neighbors. In 1990s, Serbia's policy towards its neighbors was mainly irrational, which left an impact on the relations with some of its neighbors in the form of disputes which are being addressed or will be addressed bilaterally or at the international level. The Stabilization and Association Agreement envisages Serbia's contractual obligation to foster good neighborly relations in the region, while the European Commission and the European Parliament have always emphasized in their reports that the regional cooperation is one of the key indicators of Serbia's pro-European orientation. This is why all pending issues between Serbia and its neighbors should be solved and their cooperation should be intensive in politics and economy.

After Croatia, Montenegro and Macedonia recognized Kosovo's independence, an extremely bad atmosphere was created in diplomatic relations between Serbia and its three neighbors.

Belgrade's unreasonably harsh and emotional reaction forced the ambassadors of Montenegro and Macedonia to leave Belgrade, which triggered a backlash against Serbia, drastically worsening diplomatic relations with the two countries. This also stirred concern in the European institutions. Normalization of relations with Macedonia and Montenegro is absolutely necessary if Serbia is to integrate fully into Europe. This is why it is extremely important that the Serbian Government extends hand of cooperation to its neighbors who have gone further down the EU path than Serbia by organizing official visits to Skopje and Podgorica and withdrawing its decision declaring the ambassadors of those countries undesirable on Serbian soil.

Croatia could be Serbia's main partner on the path to the European Union, despite Serbia's toughened rhetoric on Croatia following Kosovo's independence. Zagreb should be Belgrade's main partner in the EU and NATO accession and also in refugee returns to Croatia and addressing other still pending issues from the armed conflicts in 1990s. The charges filed by both countries should be left to the International Court of Justice unless bilateral settlement of the dispute is not possible, in which case Serbia will have to respect the Court's judgment. At the same time, the Danube border dispute between Serbia and Croatia should be settled as soon as possible through bilateral negotiations with the Croatian government in order to prevent this issue from becoming an insurmountable obstacle at the moment of Serbia's EU accession.

Regarding Bosnia and Herzegovina, Serbia, as a guarantor of the Dayton Agreement, should support all the efforts the international community is making to redefine and make BiH more efficient through the constitutional reform. Without a constitutional reform in BiH, there will be no internal stability or the stability in the region – which is necessary for the fast European integration of all West Balkan states.

Another important point of Serbia's new politics refers to the successful completion of cooperation with the tribunal in the Hague. The Stabilization and Association Agreement and the Interim Trade Agreement with the European Union were ratified in the Serbian Parliament on 9 September, 2008. Ratification of these agreements has not yet begun in the EU because of the Dutch Government's opposition over Serbia's failure to establish full cooperation with the tribunal in the Hague. Serbia should ensure the apprehension of Ratko Mladic and Goran Hadzic or otherwise to provide substantive evidence that it is unable to do that, thereby proving its full cooperation with the tribunal in the Hague. Thereby, Serbia would demonstrate its ability to fulfill its international obligations, primarily those established in the judgment of the International Court of Justice in connection with Bosnia-Herzegovina's charges against Serbia, and also its genuine orientation to the basic values of united Europe – respect for human dignity, freedom, democracy and the rule of law.

The third item concerns the necessity for the constitutional reform in Serbia. On its path towards the European Union, Serbia will have to change some sections of its Constitution just as other countries of the region did, among them Slovenia, the country which changed its Constitution as many as two times before it acceded to the Union. There are two major obstacles in the Serbian 2006 Constitution which impede Serbia's EU path:

- a) provisions on Kosovo, and
- b) provisions on Serbia's scope of responsibility and the (lack of) primacy of international law over national law.

Kosovo is defined in the Preamble to the Serbian Constitution and the texts of the oaths taken by the highest power-holders as an autonomous province of Serbia. The rigid insistence on having this provision in the most fundamental law narrowed the leeway in negotiations with Kosovars on all pending Kosovo issues. Since the status of Kosovo was defined by international documents, the reasonable behavior of the political elite in power in Serbia would be their advocacy of changes in the relevant provisions of the Serbian

Constitution in order to prevent any possible manipulation with the Serbian European integration in the future over the so-called Kosovo issue.

The Serbian Constitution, on the other hand, does not define the primacy of international law over national law. Thus it is envisaged in a completely amateur way that every international treaty has to be harmonized with the Constitution. Although Serbia and Kosovo are going separate EU paths, while the Stabilization and Association Agreement does not refer to Kosovo, this constitutional provision could be used as a formal obstacle to Serbia's accession to the EU and as such must be changed urgently. At the same time, Chapter IV of the Constitution does not envisage transfer of sovereign powers to the supranational organization, i.e. the European Union, which can also be a very serious formal obstacle to Serbian accession to that organization.

Finally, a special point of acceleration on Serbia's EU path is Serbian attitude towards Kosovo issue. The policy-level road map for both Serbia and Kosovo envisages a number of steps. First of all, Serbia, focusing on rational and objective analysis of the situation in the world, should send a clear signal to the European Union that an agreement is possible under which Serbia, provided that an agreement is reached on future steps, will accept the Kosovo reality. As Serbia is unable to prevent the European Union member-states from recognizing Kosovo's independence, Serbia should open, rather than close, the chapter of its European prospects, which would be a rational thing to do.

Serbia should initiate an agreement with the European Union and the representatives of Kosovars which would regulate the status of Kosovo Serbs, implementation of their human and civil rights, citizenship, free access to cultural monuments and freedom of movement between Kosovo and Serbia. At the same time, Serbia should request from the European Union a clear guarantee that it will be granted a candidate status and a date of commencement of pre-accession negotiations. Within regional cooperation, after it gets a candidate status, Serbia should establish diplomatic relations with Kosovo, which would be a requirement for its accession to the European Union.

The above-proposed Kosovo policy and acceleration of Serbia's European integration would, after twenty years of conflicts and wars, help define new relations among the states in the region. In the long run, it would bring Serbia the greatest benefits, and would create for the West Balkan countries preconditions necessary for enhancing stability and mutual trust and confidence.