

E-2637/10EN

**Answer given by Mr Füle
on behalf of the Commission
(1.6.2010)**

The Commission is closely monitoring the judicial reform process in Serbia, which is a key priority of the European Partnership, and the recent developments regarding the re-appointment of judges and prosecutors. In February 2010, the Commission carried out an expert mission, together with experts from the Member States, to assess the implementation of the re-appointment procedure.

The findings of the expert mission confirm that the re-appointment procedure showed important shortcomings regarding the composition and independence of the High Judicial Council and the State Prosecutorial Council, the application of objective criteria and the transparency and reliability of the overall process.

The Vice-President of the Commission for Justice, Fundamental Rights and Citizenship and the Member of the Commission responsible for Enlargement and European Neighbourhood Policy have raised these shortcomings in the judicial reform with the Serbian counterparts and pointed out the need to carry out a full review of the procedure. The Commission will fully support such a process and closely monitor the future developments. This monitoring will be reflected in the annual progress reports as well as in a possible Opinion on the merits of Serbia's application for accession to the EU.

Subject: Independence of the judiciary in Serbia

In the context of its negotiations to join the EU, Serbia is undertaking a whole series of modifications/adaptations of its legislation in order to conform to the treaty criteria. More specifically, with regard to the reform of the legal system a number of partial amendments have been proposed to the constitution, with a view to creating Higher Councils to oversee the judges and the public prosecutors, on the Spanish model.

Under this model, the magistrates vote for candidates designated by them to become members of the two Higher Councils, subject to confirmation and ratification by parliament.

However, it is claimed by the Judges' Association of Serbia, the Prosecutors' Association of Serbia, newspapers including Blic, Politika, Novosti, Kurir and Nin, and the international association European Magistrates for Freedom and Liberty (MEDEL) that the Serbian parliament, instead of respecting the outcome of the above vote, has chosen candidates in an arbitrary fashion from the two lists represented in the vote.

In addition, the two councils were still incomplete, as the corps of lawyers and the universities had not appointed their representatives. A law was then adopted for the 'election' of judges and prosecutors, which in reality leaves ample room for the political parties to influence what is a very delicate decision-making process, be it concerning either the nomination or the non-confirmation of judges and prosecutors

who are already serving.

All this has been worsened by the attitude of the two Higher Councils, which have validated the candidatures submitted without specifying or communicating beforehand what the validation criteria are, and — even more reprehensibly — without supplying detailed individual justifications in case of rejection.

In view of these grave circumstances, does the Commission not believe that this attitude of the Serbian institutions could jeopardise the success of the accession negotiations?

Can the Commission provide information on the mission of the delegation it recently sent to Belgrade?

What concrete proposals will the Commission make to the Serbian authorities with a view to their adopting the body of legislation needed if there is to be a truly independent judiciary, as one of the pillars of the constitutional state?