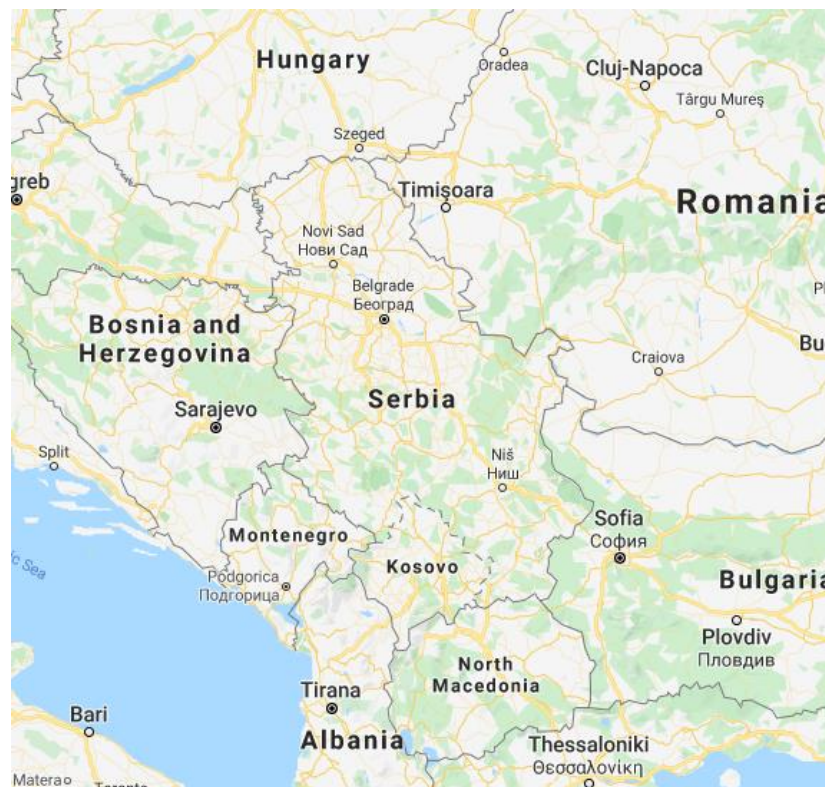




Rule of Law in Serbia: Legal Framework and Some Challenges

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Serbia: Introductory remarks



Source: Google Maps

The Rule of Law

Serbian Constitution from 2006:

Section One – Constitutional Principles, Article 3 (Rule of law)

“Rule of law is a fundamental prerequisite for the Constitution which is based on inalienable human rights.

The rule of law shall be exercised through free and direct elections, constitutional guarantees of human and minority rights, separation of powers, independent judiciary and observance of Constitution and Law by the authorities.”

Elements:

- free and direct elections
- constitutional guarantees of human and minority rights
- separation of powers
- independent judiciary
- observance of Constitution and Law by the authorities

Semi-Presidential System (dual, “bicephalous” executive)

- President of the Republic
- Government
- Parliament
- Judiciary

Parliamentary Elections

- Proportional electoral system
- 250 MPs
- Census 3%
- 40% of “less present gender” MPs
- Claims of unequal treatment of the opposition
- Accusations of “functionary campaign”

Independent Judiciary

- Judicial Academy
- Ways for electing and promoting judges
- Claims of endangering independence by executive power and media
- Appeals to Constitutional Court

Human Rights

- Gender Equality
- Minority Rights
- LGBT Rights
- Free Media

EU and Serbia

- European Economic Community and Yugoslavia (Socialist Federal Republic of Yugoslavia) (cooperation 1967 – 1990)
- EU and Yugoslavia (Federal Republic of Yugoslavia) – first agreement in 2000.
- 2008 - Stabilization and Association Agreement
- 2009 – Official application for membership

EU and Serbia

- 2012 – EU candidate status
- 2014 – beginning of accession negotiations
- 35 chapters, 18 opened so far

- Rule of Law – Chapters 23 and 24 (2016)
- Judiciary and Fundamental Rights (23)
- Justice, Freedom and Security (24)

Chapter 23

- Merit based career system for the judges
- Judicial Academy reforms
- Merit-based career system for civil servants
- Media freedom
- Implementation of Law on prohibition of discrimination

Chapter 24

- Asylum-related questions
- Anticorruption plans
- The role of intelligence services

Constitution – partial or total revision?

- Judiciary – limiting/abolishing influence of executive power
- Division of powers – system “predictability”
- Taking carefully the level of political/democratic culture into consideration
- Realistic plans and expectations
- The most difficult are those decisions that are correct and necessary but who’s benefits will not be experienced to the full degree by the generation that makes them

Thank you very much for your attention! 😊

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