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The Maltese Presidency of the Council of the EU

Ubreakable ties with the candidate counties

First half of 2017 will be marked by various events that will define the future of Europe and therefore the success of ambitious Maltese presidency

2016 will be remembered as a year that brought unexpected political outcomes and outrages in the Western hemisphere. Nevertheless, 2017 is promising to be more intense than the previous year. During the first half of this year, the Netherlands will have parliamentary elections, while both parliamentary and presidential elections will be held in France. Furthermore, the United Kingdom will have only local elections (for now), and possibly Italy. The national elections and glooming political uncertainty will have a great impact on the EU and its institutions, especially on the election of the new president of the European Parliament who will replace Martin Schultz. It is also expected that the question regarding Brexit and whether it should be initiated by the UK parliament or government will be solved. On the other hand, the agreement between the EU and Turkey regarding the migrant crisis and its containment remains on shaky ground. Terrorist attacks in Europe have never been more frequent and the last attack in Turkey on New Year's Eve showed that security problems will still be Europe's main issue. The smallest EU member – Malta, finds itself in the midst of the upcoming events while holding the EU's rotating Council Presidency. Malta together with the Netherlands and Slo-

vakia, is a part of the current governing 'trio', which means that its governing priorities will be reflecting the [strategic program of the 'trio'](#). Thus, Malta will continue initiatives that were already put in place such as migration, security, internal market and the EU's neighbourhood. However, as a small Mediterranean country, one of its main national interests will be further development of the EU's maritime policies.

This *CEP Insight* will be focusing on the priorities of the Maltese presidency which should be considered by Serbian authorities, since they will be affecting the issues in which Serbia is directly involved.

Migration and Asylum: No difference between member countries and member candidates?

Reforming and strengthening the [Common European Asylum System](#) is the first Maltese priority. [This means](#) taking further steps towards revision of the Dublin regulation, which will bring fairer sharing of asylum applica-

The realisation of the ambitious plan to reform the Common European Asylum System should gain a boost during Maltese presidency. It is essential that Serbia, as a candidate country, anticipates the upcoming changes in its national plans for harmonisation with the acquis



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tions between the member states. The reform also foresees the transformation of asylum directives (regarding entry, qualification and return) into regulations, which will bring greater convergence between the asylum systems of the member states.

Due to its geographical position, Serbia is undoubtedly a necessary partner in handling the “migration crisis”. Considering the fact that Serbia has opened Chapter 24 in accession negotiations with the EU, the legitimate question arises of whether it is in the interest of both sides to treat Serbia as an “associated member” in this matter, or whether the current negotiating framework is sufficient in finding the adequate solution.

This will also foster direct and absolute application of the EU regulations in this area, which would facilitate seeking protection from the European Court of Justice in case these regulations are breached. Lastly, this reform would entail significant capacity upgrade and giving more operational and executive decision-making powers to the European Asylum Support Office (EASO). In practice, this means that one of the tasks of the EASO (located in Valletta) will be the provision of professional assistance when dealing with asylum applications, similar to the service it currently provides in Greece. EASO will also have to act as a supervisor and monitor the compliance of member states’ asylum systems with the adopted standards. This institution will also cooperate with the European Commission, which will be able to apply restrictive measures to the states that do not comply with the standards.

This ambitious project is expected to be put in practice during the Maltese presidency. However, this can be a long and difficult process, since this subject is very sensitive and there is not a common denominator between member states regarding future development of migration and asylum policies. This topic triggers a socio-philosophical discussion about boundaries between security on one side, and basic human rights and freedoms on the other side. Hence, fierce rifts between two official decision-making bodies – the European parliament and the member states, can be expected. The main concern of the European parliament is to protect human rights, whereas there is an increasing trend in the member states – represented in the Council of the EU, to sacrifice fundamental rights for security.

However, even though the collective vision to deal with migration and asylum policies does not exist, there is a consensus about the necessity of strengthening the capacities of asylum systems of the states and the EU’s borders, in which EASO is [directly involved](#). Due to its geographical position, Serbia represents a very important partner. Considering the fact that Serbia has opened Chapter 24 in accession negotiations with the

EU, the legitimate question arises of whether it is in the interest of both sides to treat Serbia as an “associated member” in this matter, or whether the current negotiating framework is sufficient in finding the adequate solution.

Security of the EU citizens and effects of the immediate surroundings

The fight against terrorism and organized crime is the main priority of the Maltese presidency, which does not need further elaboration. Cooperation with third countries surrounding the EU is highly important, and is becoming increasingly emphasised by EU officials and their official documents. The new [EU Security Strategy](#) highlights the need for comprehensive cooperation with the countries of the Western Balkans in order to make these countries more resilient to challenges and thus prevent spillover of these challenges in the EU. Nevertheless, it appears that it went unnoticed that in this year’s [Country Reports for the EU candidate countries](#) the issues of assessment of terrorism and radicalization in these countries were addressed for the first time.

Malta will also be engaged in stepping forward – through [the European Travel Information and Authorisation System \(ETIAS\)](#), which was [proposed](#) by the European Commission in November 2016. This verification system is directed at the citizens of countries that do not need a visa for travelling to the Schengen

Because of the possible negative political and practical consequences of paying the Schengen entrance fee, ETIAS should be under the radar of our public. Furthermore, it should be the incentive for an active advocacy for the best possible solution

states. The main aim of this mechanism is to evaluate whether the entry of passengers who do not need a visa is posing a “security threat, migration risk or risk for public health”. The Serbian public should pay more attention to this, for two reasons. The first reason why Serbia should be interested in the ETIAS is because according to the current proposal, anyone who travels in the Schengen zone needs to pay a 5-euro compensation in order to get an entry permit. This permit lasts for 5 years but what is striking is that it does not matter whether a tourist is from one of the candidate countries like Serbia, or if they are a tourist from Australia. If the Commission’s proposal does not get amended by the decision-makers – Council and Parliament, Serbia and other candidate countries would symbolically be given another confirmation that membership is not certain. The ETIAS and the negative political and practical consequences of the Schengen entry fee, should make Serbian officials engage more effectively in finding the best solution for Serbia and its citizens. These circumstances give a reason for

Without further discussing the legitimacy of the ETIAS from human rights point of view, it is important to acknowledge that the ETIAS would contribute to the resolution of “false asylum seekers” issue

concern. However, it is encouraging that Serbia can use mechanisms such as advocating solutions with members of the European Parliament, by proposing and tabling the concrete amendments.

The second reason the ETIAS process needs to be monitored is due to its possible positive effect on the Serbian EU membership bid. It is expected that implementation of the ETIAS will lower the number of asylum seekers from Serbia in the EU. The number of asylum seekers has not decreased even though conditions in asylum systems of the countries rated most popular among Serbian asylum seekers (Germany, Sweden) became stricter. It is believed that a decrease in the number of asylum seekers will be achieved through this system, which will recognise the potential ‘migration risk’ by cross-checking the data on asylum seekers’ fingerprints with data on people who overstayed in the EU’s territory (data sets [EURODAC](#) and [EES](#)). Indeed, the problem with so-called ‘fake asylum seekers’ does not allow Serbia to successfully terminate the negotiations on the Chapter 24, since a significant decrease in asylum seeking from Serbian citizens is defined as interim benchmark. Without further discussing the legitimacy of the ETIAS from human rights point of view, it is important to acknowledge that the ETIAS would contribute to the resolution of this problem, which has been persisting since the very beginnings of the visa-free regime.

Opening of the new chapters with Serbia

EU enlargement is not the main priority of the Maltese presidency, obviously because of the other imminent affairs. The Maltese representative at the European Council attended the debate [organised by the CEP and the EU Info Centre](#), emphasised that Malta is a great supporter of the EU enlargement. It appears that Malta shares the same views as the European Commission, which means that it is a strong enlargement advocate, gives priority to the quality of implemented reforms, and the ‘fundamental’ areas of the rule of law, public administration reform, and economic governance. During the presidency, Malta will organise a large seminar for the candidate countries which will be focused on these countries’ developments in digital policies.

It is expected that during the Maltese presidency, Serbia will open Chapter 26 which was blocked at the end of the Slovakian presidency after the inter-governmental conference during

which Chapters 25 and 5 had been opened. In addition, the opening of the Chapter 7 - Intellectual Property Law, Chapter 13 - Fisheries, 20 – Entrepreneurship and Industrial Policy, 29 – Customs Union, 33 - Financial and Budget Regulations, can be expected. Nonetheless, these negotiating chapters will be open only in the case of smooth implementation of activities and commitments under Chapters 23, 24 and 35. Moreover, it can be expected that Serbia will meet the requirements needed to open Chapter 1 – Free Movement of Goods, 3 – Free Movement of Services, 11 – Agriculture and Rural Development, and 19 – Social Policy and Employment. These circumstances create optimism and confidence that the political dimension of the negotiating process, i.e. the focus on unsolved bilateral problems and relations with Pristina, will not be in the limelight at least temporarily.

Can the priorities of the presidency be met in the circumstances that constantly produce new priorities?

It will be interesting to see how the smallest member country will handle the Presidency, bearing in mind that several key events are expected to occur at the beginning of 2017. All of its priorities will be considerably influenced by these events. The election of the president of the European Parliament itself, which so far has not gained significant media coverage, is of great importance because the new person and his/her team

can change the communication dynamics with the European Commission. As a result, this can lead to slower or faster decision-making process. Martin Schulz had a good relationship with Jean Claude Juncker and his team, which is [not expected to be the case with his successors](#). The new trend of ‘securitizing’ public policy will continue whether or not the far-right parties are elected in the upcoming elections, therefore the security issues are expected to be the main focus of the Maltese agenda. Brexit itself distracts attention from the presidency priorities. Considering the current situation, it seems clear that both sides will have [tough stances](#) and the process will be exhausting.

When it comes to enlargement, it can be expected that the big member states and the ones neighbouring the candidate countries will continue to have the biggest stakes. It can be claimed that in the next six months the discrepancy between countries that are more successful EU aspirants (Serbia, Monte-

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negro, and Albania) and those that are currently stagnating or regressing (Bosnia and Herzegovina, Macedonia, Kosovo) will not diminish.

Considering Serbia, it appears that it will be in the interest of Malta as a presidential country to open and close as many negotiating chapters with Serbia as possible. Malta will be able to demonstrate its success as a presiding country, which compared to other burning challenges, does not represent such a big endeavour.

Serbia as a candidate country is required to align its legislation with the European acquis, which is constantly changing and expanding in the field of migration, asylum, and the fight against terrorism. This process is parallel with the accession

negotiations with the EU on Chapter 24, which was opened during the Slovakian presidency. This chapter is of great importance since it can have a suspensive effect (meaning that it can lead to the blockage of the entire accession negotiation, in case of no progress being made). Hence, it is highly important that Serbia closely monitors the developments in these areas, as well as that it can show its ability to anticipate the upcoming novelties as it formulates its national plans for alignment with the EU legislation.

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