

29 June 2011

**Question for written answer E-006694/2011
to the Commission**

Rule 117

Jelko Kacin (ALDE)

<http://www.europarl.europa.eu/sidesSearch/search.do?type=QP&language=EN&term=7&author=23691>

Subject: The Serbian Criminal Code and property rights

There are credible indications that parts of Serbia's Criminal Code – namely the application of Article 359 (abuse of office) to the management of private companies, and the rules on pre-trial detention – are not compatible with the principles of the rule of law. The Serbian State Secretary for Justice, Slobodan Homen, has recently stated that there will be changes in this area following recommendations from the EU.

Furthermore, the Serbian authorities have been slow in clarifying certain cases brought against individuals – the Djordjević case being an example. After taking legal action against the Serbian privatisation agency in an attempt to protect his property rights, Mr Djordjević was accused of inciting company management to abuse of office and detained for nine months.

Cases such as these highlight the insecurity of the investment climate in Serbia, particularly with regard to privatisation, and raise concerns about the independence of the justice system.

1. Has the Commission identified certain provisions of the Serbian Criminal Code as problematic and incompatible with the principles of the rule of law? If so, which provisions?
2. How and in what timeframe does the Commission intend to monitor the developments announced by the State Secretary for Justice, in particular in relation to ongoing cases based on Article 359?
3. Will these areas be addressed in the Commission opinion about Serbia expected in October 2011?
4. What steps is the Commission considering to ensure that implementation of the protection of private investors' property rights in Serbia is brought into line with EU standards?

31 August 2011

Answer given by Mr Füle on behalf of the Commission

<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2011-006694&language=EN>

The Commission closely monitors the respect of the rule of law in Serbia. Allegations of certain provisions of the Serbian Criminal Code, in particular Article 359, violating EU standards were brought to the Commission's attention. Article 359 of the Criminal Code renders abuse of office in both the public and the private sector, a criminal offence. While the term 'abuse of office' is neither defined nor further regulated in the EU acquis, there are Member States who have provisions similar to Serbian Article 359. This includes the broad definition of an offence and its coverage of the private sector. However, a working group preparing draft changes to the Serbian Criminal Code is currently reviewing Article 359.

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The Commission, within the framework of the Stabilisation and Association Process, will continue to monitor any future developments in the rule of law area and particularly possible changes to the Criminal Code. As announced in the 2010-11 Enlargement Strategy Paper, a dialogue on rule of law was launched. This will automatically use monitoring tools such as peer assessment missions. It will ensure the provision of appropriate advice to enlargement countries on rule of law-related issues.

In its upcoming Opinion on the Serbian application for EU membership, the Commission will report on all relevant aspects of the Copenhagen criteria. These include respect for rule of law and property rights.

The Commission has repeatedly outlined certain shortcomings within the Serbian legislative framework. This creates uncertainty in relation to property rights and affects the investment climate negatively. It also includes lacking a clear solution to the outstanding question of property restitution nationalised under the communist regime. The Commission urged the Serbian authorities on every possible occasion.