

Information by Montenegro in relation to lessons learned in the development, evaluation and impact of anti-corruption strategies (art. 5 of the UNCAC) for the tenth intersessional meeting of the Working Group on Prevention (4 to 6 September 2019)

Introduction

Until 2014, the Government of Montenegro adopted and implemented four-year strategies for the fight against corruption and organized crime and two-year action plans for their implementation. The implementation of the last such strategy, namely the Strategy for the Fight against Corruption and Organized Crime (2010-2014), as well as its accompanying action plans (2010-2012 and 2013-2014), expired at the end of 2014, which almost coincided with the opening of the negotiation chapter 23 (Judiciary and Fundamental Rights) with the European Union, as well as the adoption of the **Action Plan for Chapter 23** (hereinafter: AP 23), which covers the **judiciary, fight against corruption and fundamental rights**.

In order to avoid overlapping of anti-corruption measures and to facilitate monitoring of their implementation, **AP 23 becomes a strategic anti-corruption document of Montenegro**. To provide for continuation of monitoring of activities in areas of special risk, covered by the mentioned anti-corruption strategy and its action plans, the **AP 23 has been supplemented** in the part dealing with activities for prevention of corruption, by the adoption of the **Operational document for prevention of corruption in areas of special risk** that covered seven areas: **public procurement, privatization, urban planning, education, health, local self-government and police**.

Action Plan for Chapter 23

The sole benchmark for the opening of negotiations on Chapter 23 was for Montenegro to “adopt one or more detailed action plans including appropriate timelines and implications on funds and setting out clear goals, measurable indicators, and, where appropriate, the necessary institutional order in the following areas: Judiciary, Fight against Corruption, and Fundamental Rights”.

In March 2012, the Government of Montenegro established the Working Group for preparation of negotiations on the accession of Montenegro to the European Union

in the area of the acquis related to the negotiation chapter 23 – Judiciary and Fundamental Rights (hereinafter referred to as **Working Group 23**). Working group 23 drafted the AP 23, which was adopted in June 2013, after which negotiations with the EU in this chapter were opened in December 2013. AP 23 was updated in 2015, and the Operational Document was adopted and incorporated in 2016.

Drafting of the AP 23 and involvement of all relevant stakeholders

Working Group 23 consists of **47 members from all three branches of government: legislative, judicial, and executive, including five representatives from nongovernmental organizations**. Working Group 23 has coordinators for particular areas and coordinators in institutions: two coordinators for the area of judiciary, three coordinators for the area of prevention of corruption, one coordinator for the area of repression of corruption, three coordinators for human rights and one coordinator for cooperation with NGOs.

AP 23 was developed through the process of consultations between the key stakeholders and the full inter-ministerial cooperation between all responsible institutions and bodies, with a view to providing the maximum support to implementation. Public consultations were also organized for the updating of AP 23, when all relevant stakeholders were given the opportunity to submit the proposals and provide opinion on the updated document. An important contribution was provided by **representatives of the civil sector in the Working Group 23**, who were involved in the updating and finalizing the AP 23.

Among others, the tasks of the Working Group 23 are: **to participate in the preparation, implementation and reporting on the implementation of action plans and other documents of importance for Montenegro's accession to the European Union; and monitoring and reporting on the implementation of the final benchmarks for the European Union acquis communautaire related to Negotiating Chapter 23 - Judiciary and Fundamental Rights.**

Structure and areas covered by AP 23

In accordance with the position of the EU Member States, AP 23 was designed so as to **cover three sub-areas: Judiciary, Fight against Corruption, and Fundamental Rights**. The fourth sub-area – **Cooperation with the NGO Sector** is also included in the AP 23.

Prior to presentation of the objectives and measures for each sub-area, in order to consider their projections as adequately as possible, a brief description of the current state of play in that sub-area is provided, which represents a starting basis for the projection of future activities. Each sub-area is divided into headings, i.e. topics which it contains. **Sub-area Fight against corruption contains two headings: Prevention of Corruption, and Repression of Corruption.**

Defining objectives

The objectives in the AP 23 were defined taking into account clear recommendations from the Screening Report, as well as those given in the course of the screening process. Also, some of the objectives were defined by taking into account the need of achieving certain standards that are prerequisites for the fulfilment of certain objectives referred to in the Screening Report. During the updating of the AP 23, the objectives remained the same.

In accordance with the rules for preparation of AP 23, as a strategic and reform document, AP 23 contains an overview of mechanisms and activities based on which it is evident what is intended to be achieved within a specified period, based on realistic assessments and to the extent possible.

Defining measures

The measures in AP 23 were designed towards fulfilment of recommendations defined by the Screening Report for this chapter, as well as interim benchmarks. All measures contained in AP 23 are in line with the measures provided in the national strategic documents (Judicial Reform Strategy, Plan for rationalization of the judicial network, Strategy for fight against corruption and organized crime, Strategy for integration of persons with disabilities, etc.).

The recommendations in the Screening Report were defined as goals, and then divided into measures. When defining measures, priorities were taken into account that were assessed as preconditions for fulfilment of certain other goals. The measures in the AP 23 can be divided into three groups: **normative harmonization, strengthening of the institutional and administrative framework, as well as implementation of necessary educational activities for staff and raising awareness of citizens** (where applicable). It is important to note that the planned measures were conceived in such a manner that their implementation clearly reflects the impact of the reform.

Defining timelines

Timelines were set for implementation of each individual activity, which as a set of measures provide for the achievement of the established objective.

For each sub-area of Chapter 23, the activities were projected and presented in such a manner to chronologically follow their implementation, starting from 2013. In that context, priorities in the implementation of the activities were established as well, in accordance with the following structure of implementation:

- Short-term priorities – measures to be implemented in 2015;
- Medium-term priorities – measures to be implemented in 2016 and 2017;
- Long-term priorities – measures to be implemented from 2018 onwards.

Precise deadlines were defined for implementation of measures from 2015 by stating the month and the year in which their implementation is planned. When it comes to medium-term priorities, implementation of measures was planned quarterly, while implementation of long-term measures is defined on semi-annual basis.

Designating authorities responsible for implementation of measures

Institutions responsible for implementation are designated for each measure. For some measures that call for cooperation between several institutions and inter-agency cooperation, the institution in charge of carrying out and coordinating the implementation of activities was defined first, while other institutions provide support in achieving as high and efficient level of implementation as possible. Relative to the measures which refer to amendments to the existing and drafting and adoption of new pieces of legislation, multidisciplinary working groups are established, in accordance with the content of that new piece of legislation, with participation of stakeholders from the civil sector, in accordance with the Government's Decision on manner and procedure for establishing cooperation between state administration bodies and NGOs, and Decision on manner and procedure for carrying out public discussions in the law-making process.

Allocating funds for implementation

AP 23 defines the funds required for implementation of envisaged measures, and it should be noted that the Budget of Montenegro is the major source of financing. Since expert assistance was required for implementation of certain measures, the engagement of experts through TAIEX was envisaged. Considering that significant amount of funds necessary for implementation of certain measures, the AP 23 also

sets forth as sources of funding: allocated funds under IPA II projects, as well as obtained and potential grants from international organizations or EU Member States, via projects and bilateral agreements.

Defining indicators of result and impact

Indicators were for each measure individually. Indicators were set so as to facilitate the monitoring of the AP 23 implementation, both quantitatively and qualitatively. Thus, two types of indicators were set: **indicators of result, and indicators of impact**, where possible. Each indicator was set so as to monitor not only the implementation of a certain activity up to the level of alignment (indicator of result), but also to provide for the assessment of the level of implementation (indicator of impact), i.e. the implementation of a new standard with respect to citizens and all stakeholders can be assessed (for example: an indicator concerning an amendment to or adoption of a piece of legislation is not only its adoption, but also, where possible, statistical data on the enforcement of the law, in some cases research, etc., hence, measurable data indicating impact on society). Furthermore, the indicators of impact are linked to the track record tables for the monitoring of fulfilment of interim benchmarks.

Monitoring of implementation

In the implementation of AP 23, special attention has been paid to continuous monitoring of implementation of all measures and the level of achievement of projected objectives.

In that part, at operational level, Working Group 23 is charged with monitoring and reporting on AP 23 implementation, and then, a member of the Negotiating Group, Chief Negotiator, the College and the Government. In 2014, the Government also established the Rule of Law Council, as a high-level body that would monitor all activities and deal with possible challenges, with a view to enhancing the coordination in meeting the requirements from chapters 23 and 24.

During the monitoring of implementation, special support has been provided by the civil sector, whose representatives are members of the Working Group 23 and who contribute to the improvement of implementation of each activity, its monitoring, but also to the maintenance of the necessary level of transparency.

Monitoring of implementation of AP 23 is carried out by coordinators for particular areas. The coordinators directly cooperate with focal points within the institutions in charge of implementation of planned measures and receive from them information on all matters important for implementation. The focal points report to the coordinators quarterly, while the coordinators draft semi-annual

implementation reports based on the provided information. The semi-annual reports are approved by the Head of the Working Group 23 and a member of the Negotiating Group, after which the reports are considered by the Government and submitted to the European Commission through the MFA.

Updating AP 23

In setting short-term, mid-term and long-term priorities, and planning the objectives and measures in AP 23, due attention has been given to providing for flexibility in terms of planning the medium-term and long-term priorities.

AP 23 has been updated after the first implementation phase, and will be updated again to take into account certain new circumstances that might have occurred, such as new EU legislation, new IT systems and software, etc.

Operational document

To draft the **Operational document prevention of corruption in seven areas of special risk**, the Ministry of Justice established the Working Group in 2016, which consisted of the representatives of the Ministry of Justice, Ministry of Sustainable Development and Tourism, Ministry of Economy, Ministry of Health, Ministry of Education, Ministry of Interior, Police Administration, Public Procurement Administration, and the Agency for Prevention of Corruption.

The drafting of the Operational document followed the same methodology as AP 23 in terms of defining measures, timelines, implementing institutions, necessary funds, and indicators, which provided for **seamless incorporation of its measures in the AP 23, under the heading on Prevention of Corruption**. Operational document sets forth measures for the prevention of corruption in: public procurement, privatization, urban planning, education, health, local self-government and police.

