

5TH INTERNATIONAL STUDENT CONFERENCE ON LOCAL SAFETY AND SECURITY



UNIVERZITET CRNE GORE
PRAVNI FAKULTET



University of Maribor

Faculty of
Criminal Justice and Security



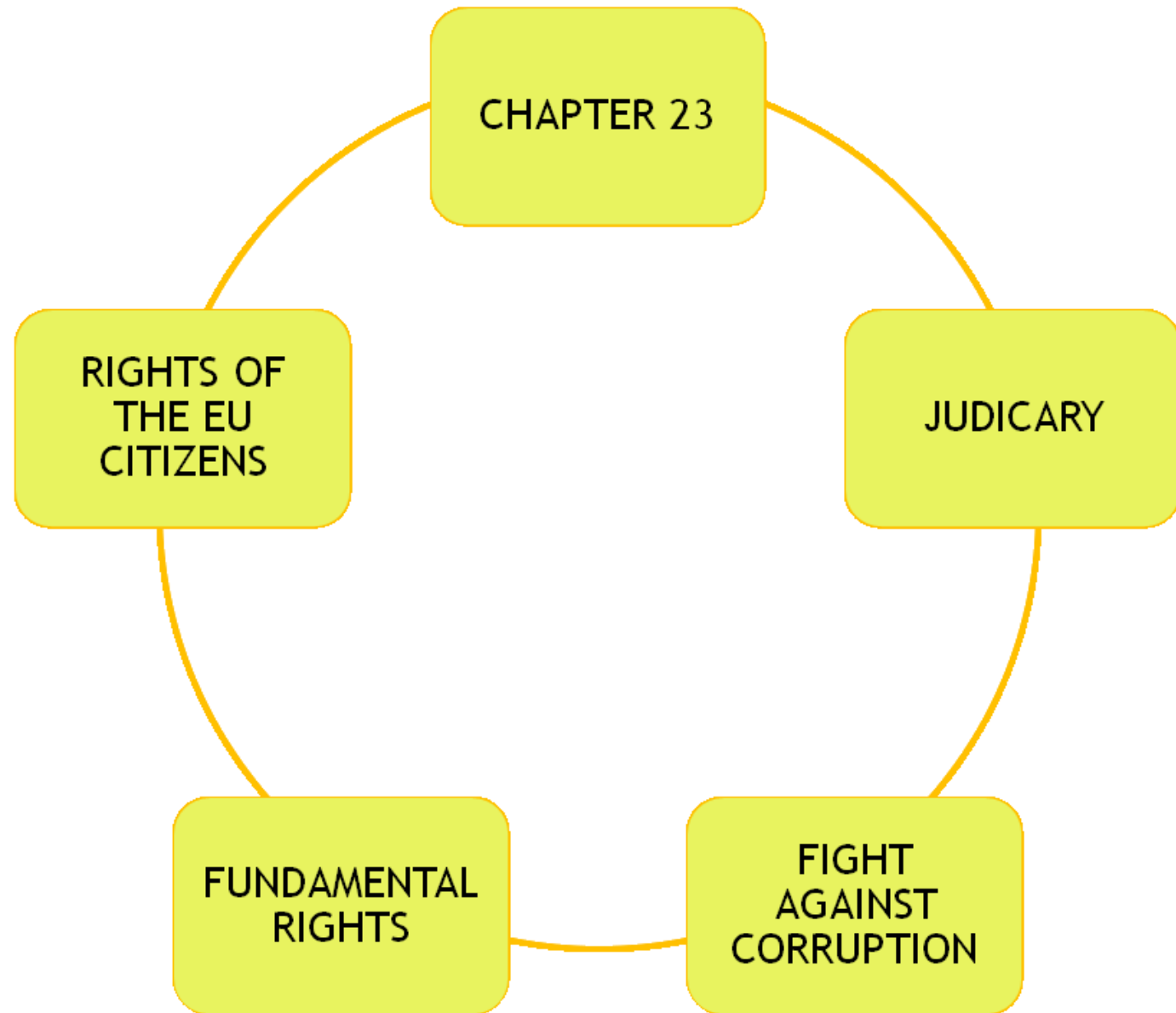
arrs

SLOVENIAN RESEARCH AGENCY

ACCELERATION OF THE PROCESS OF ACCESSION OF MONTENEGRO TO THE EU – CLOSING OF CHAPTER 23

Vučić Filipović, Amina Šabanović, Elma Balota,
Danilo Nikčević, Danijela Krvavac, Radovan
Vojinović

Sustainable Development Goal 17: Partnership for Goals



Judiciary and Fundamental Rights is one of the most challenging and complex chapters, and dynamic and duration of the negotiation process in this area directly affects progress in other aspects of negotiations with the European Union.

What is chapter 23 and why it is significant?



Montenegro and chapter 23



The priority for further general progress in the accession negotiations, and before moving towards the provisional closure of other chapters, remains the fulfilment of the remaining rule of law interim benchmarks set under chapters 23 and 24. In order to achieve this important step, Montenegro needs to close the remaining gaps in critical areas of judiciary, freedom of expression and freedom of the media, the fight against corruption and organized crime.



RECOMMENDATIONS

A blue pyramid with a yellow outline is positioned on the left side of the slide. To its right, three yellow rounded rectangular boxes are stacked vertically, each containing a recommendation. The pyramid's right edge overlaps the left edge of the boxes.

Parliament

Judiciary

Anti-corruption
policies

JUDICIARY



The area of judiciary is a subject of particular attention of the European Union, taking into account that a stable judicial system is necessary for the exercise of the rule of law. This area has five sub-areas: independence of the judiciary, impartiality of the judiciary, accountability in the judiciary, professionalism-expertise-efficiency in the judiciary and prosecution of war crimes against domestic authorities. This sub-chapter transmits the minimum of the EU acquis in this negotiating chapter, which is mostly consisted of standards that the country must meet in accordance with the internal judicial system, in order to be fully aligned with the EU acquis. In order to successfully implement the reforms, candidate country must not only have full alignment of the legal acts, but also measurable results achieved in their implementation.

FIGHT AGAINST CORRUPTION

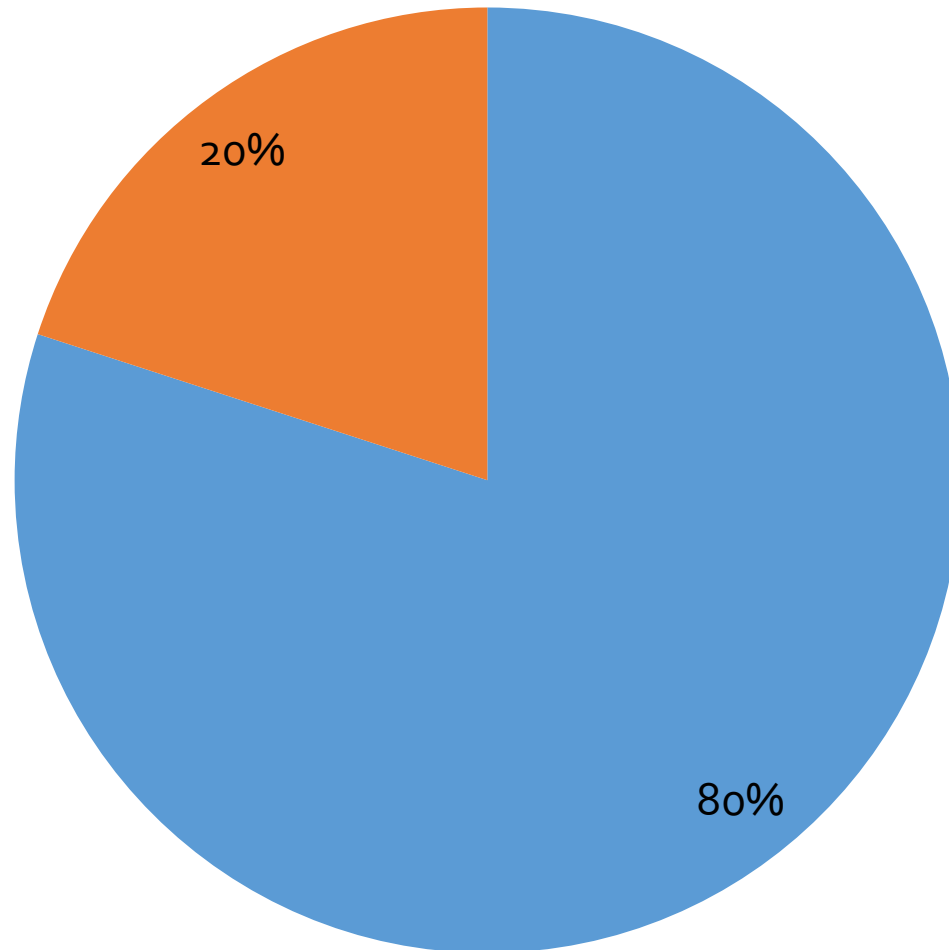
This area has been a particular focus of the European Union since the opening of negotiations. The acquis in this area consists of UN and the Council of Europe conventions, as well as decisions and recommendations of the European Council. The candidate country must fully align with the acquis in this area, but also show a willingness to achieve visible results in both, prevention and fight against corruption. The most sensitive issues in this area are areas particularly vulnerable to corruption (public procurement, privatization, urbanism, education, health, local government and police), as well as financing of the political parties.

FUNDAMENTAL RIGHTS

Fundamental rights are considered as fundamental to civilization and the rule of law. Their implementation must be guaranteed and undisturbed. This area contains a number of conventions, protocols, charters and declarations that the candidate country must introduce into its legal system, ensuring their effective implementation, as well. Particular attention is drawn to the topics of anti-discrimination, the right to a fair trial, the right to trial within a reasonable time and the protection of personal data.

Implementation of measures in the field of protection of persons who report corruption

■ accomplish ■ partially accomplish

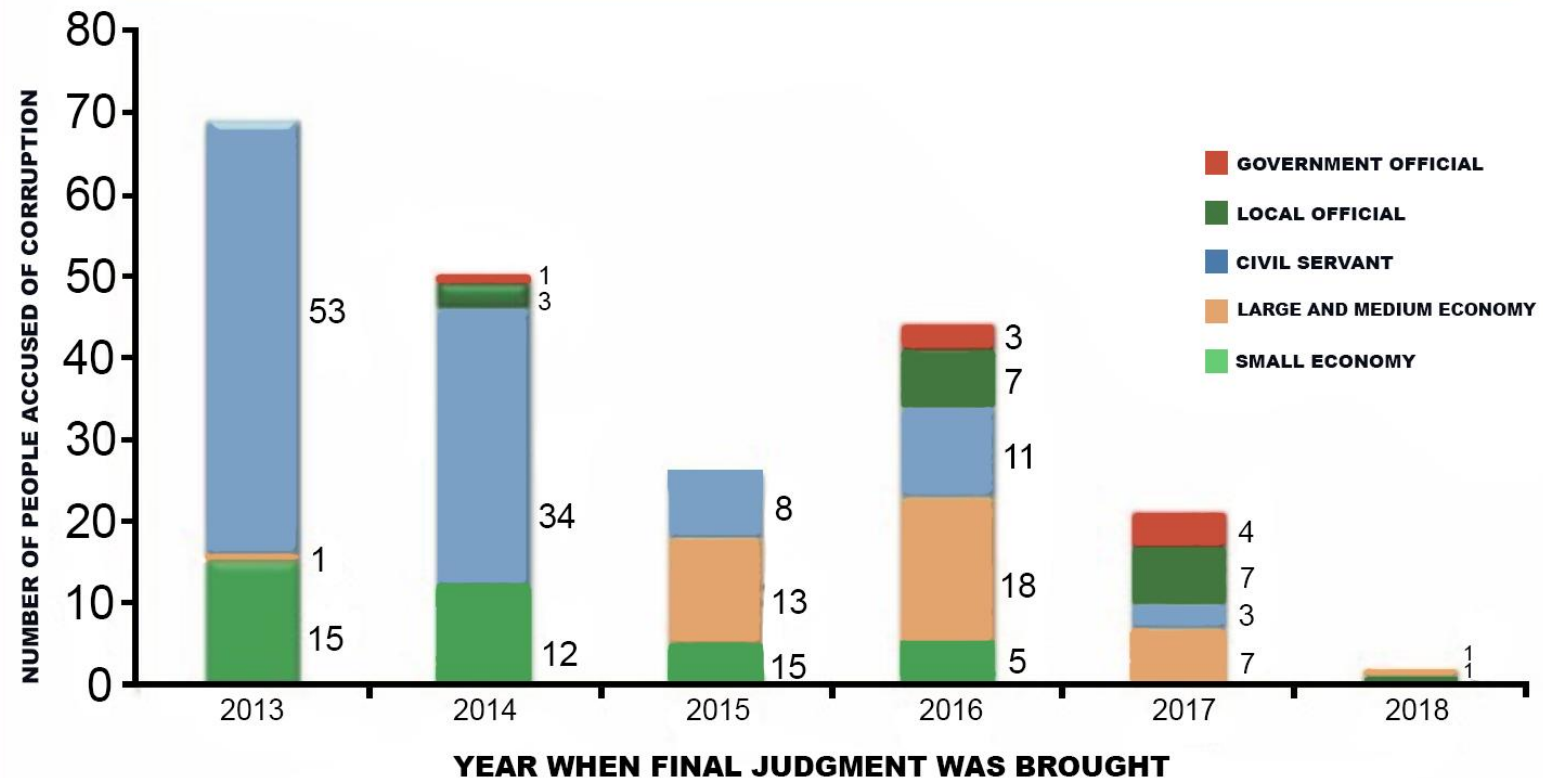


Anti-corruption agenda

ACCUSED

WHO IS ACCUSED OF CORRUPTION?

- THE TOTAL NUMBER OF PEOPLE ACCUSED OF CORRUPTION IS DECREASING
- JUDICIARY RARELY CONDUCTS PROCEEDINGS AGAINST GOVERNMENT OFFICIALS



When was the chapter opened?

Chapter 23 – Judiciary and Fundamental Rights was officially opened on 18 December 2013 at the Intergovernmental Conference in Brussels.

Opening and interim benchmarks?

Initial benchmark for Montenegro in this chapter was the development of the Action Plan. The Action Plan for Chapter 23 – Judiciary and Fundamental Rights was adopted by the Government on 27 June 2013, and it was prepared in accordance with the recommendations of the Screening Report, in such a way that the recommendations were set as objectives, to be achieved through prescribing certain measures.

Following the implementation of the first phase of the Action Plan, which identified short-term priorities, adaptation of the Action Plan started, and the adapted Action plan for Chapter 23 was adopted on 16 February 2015, with the aim of defining more specifically the medium and long-term priorities in Chapter 23.

The revision and adaptation of the Action Plan for Chapter 23 – Judiciary and Fundamental Rights, within the area related to the prevention of corruption, provides the adoption of an Operational Document for the Prevention of Corruption in Areas of Particular Risk, finally adopted in March 2016. Operational Document identifies seven areas of particular risk in this regard: public procurement, privatization, urbanism, education, health, local government and police.

Similarity between Croatia and Montenegro



Experience of Croatia shows that presence of political will to implement reforms in these areas, in order to establish actual rule of law, is of utmost importance for the success of the negotiation process under Chapter 23. In this respect, competent authorities should show actual determination to prosecute cases of corruption at all levels, including the highest. Although many of laws relating to anti-corruption policy are adopted, some areas still remain without adequate normative solutions, which are either inapplicable in practice, or are not harmonized with relevant EU regulations. Such is the case with concessions and public private partnerships.

What are the activities in the upcoming period?



Apart the need to fully align national legislation with the acquis of the EU, it is necessary for Montenegro to achieve visible and measurable results in the implementation of these laws. An independent, depoliticized and efficient judiciary is a precondition for a country to ensure rule of law. The fight against corruption is the focus of attention of all EU member states, so Montenegro will need to demonstrate the ability to effectively enforce the adopted laws, both in the prevention and repression segment of corruption. When it comes to fundamental rights, the candidate country is expected to demonstrate the ability to fully guarantee application of the fundamental rights, as well as to be prepared to provide protection in the cases of their violation. Any progress made in this chapter contributes to the strengthening of the citizens' legal certainty and confidence in the justice system, as well as to rising awareness of all citizens about respect and implementation of fundamental rights. In order to enter the next phase of negotiations, Montenegro must implement reforms in these sub-areas by fulfilling the interim benchmarks and meeting the European Commission's recommendations, such as strengthening accountability in the judiciary, establishing track record, improving overall management of human, financial and infrastructure capacities in the judiciary, strengthening independence of the Anti-Corruption Agency, general strengthening of the institutions, protecting minorities and human rights, and other recommendations made by the European Commission. After fulfillment of the interim benchmarks, the European Commission will draw up a report on the fulfillment of the interim benchmarks, which will create conditions for Montenegro to obtain the closing benchmarks and to enter the final stage of negotiations in Chapter 23.

What is the benefit for Montenegro of this chapter?



The aim of this chapter is to create the preconditions for an independent and impartial judiciary, with the necessary administrative capacity to protect the rule of law. With Montenegro, a new approach to negotiations has been launched. This implies that the negotiation chapters 23 and 24 are being among the first to be opened and last to be closed, which indicates the importance of this chapter for the whole integration process. By fully aligning national legislation with the EU acquis, as well as the reform itself, Montenegro will ensure an independent, impartial, accountable and effective judiciary and generally, a stable legal system. By improving the protection of human and minority rights, Montenegro takes the responsibility to provide its citizens with the quality and protection of the rights inherent in developed democratic societies, and thereby prevent any form of discrimination.

What is the benefit for Montenegro of this chapter?



One of the mechanisms for protecting these rights is the Court of Justice of the European Union, which ensures that EU law is applied in the same way in all EU countries and resolves legal disputes between national governments and EU institutions. The judgment of the EU Court of Justice is automatically recognized in every EU country and can only be rejected in exceptional cases. By joining to the EU, Montenegro will be able to enjoy the benefits of a unified system, as well as the protection of the rights guaranteed by the acquis, the Charter of Fundamental Rights of the European Union, as well as many other documents that Montenegro needs to harmonize and incorporate into national legislation. By fulfilling the benchmarks, Montenegro is actively fighting against corruption, which is one of the biggest challenges that modern countries are facing today. By meeting the closing benchmarks of Chapters 23 and 24, Montenegro will create the conditions to successfully complete the negotiations and become a full member of the EU.

CONCLUSION



By fully aligning national legislation with the EU acquis, as well as the reform itself, Montenegro will ensure an independent, impartial, accountable and effective judiciary and generally, a stable legal system.

By joining to the EU, Montenegro will be able to enjoy the benefits of a unified system, as well as the protection of the rights guaranteed by the acquis, the Charter of Fundamental Rights of the European Union, as well as many other documents that Montenegro needs to harmonize and incorporate into national legislation.

By meeting the closing benchmarks of Chapters 23, Montenegro will create the conditions to successfully complete the negotiations and become a full member of the EU.

Thank you for your attention.
