

NON PAPER ON CURRENT ISSUES IN THE AREA OF THE RULE OF LAW

From the very start of the negotiations talks Montenegro has been firmly working on the priority are of the rule of law and the effective implementation of the obligations stemming from the Action Plans for Chapters 23 and 24. In this context, this paper gives an overview of the main activities in the most important measures of the action plans for chapters 23 and 24 and provides and information about our standpoints in terms of implementation of key measures.

Montenegro is fully committed to maintaining a balance between negotiations in the area of rule of law and other negotiation chapters. It is of the utmost priority to implement action plans and interim benchmarks for chapters 23 and 24 and simultaneously work on preparations for the opening of the remaining chapters which does not have opening benchmarks. After fulfilling the opening benchmarks criteria in 3 chapters Montenegro continues with the activities towards fulfillment of opening benchmarks in remaining 10 chapters, as well as take actions towards fulfillment of closing benchmarks in the already opened chapters.

Building the trust in the electoral system

The following laws were passed under amendments to the electoral legislation through work of the Working Group for restoring trust in the electoral process: *Law on Electoral Roll, Amendments to the Law on Financing of Political Parties, Amendments to the Law on Personal Identity Card, Amendments to the Law on Local Self-Government and Amendments to the Law on Election of Councillors and Members of the Parliament.*

The Government of Montenegro on 11 September 2014 assigned additional resources in the amount of EUR 1.365.000 for the full implementation of electoral legislation (electronic identification of voters) out of which EUR 200.00 will be allocated this year.

On 18 September 2014, the Government of Montenegro adopted the **Draft version of the Law on Financing of Political Parties** and submitted it to the Parliamentary Working Group established in order to prepare the law for the adoption. The Working Group of the Parliament on 29 September 2014 discussed the draft law.

The trial for 13 persons was initiated in the Basic Court in Pljevlja on 13 May 2014 on suspicion of the criminal offence of abuse of office in the **Audio Recording case**. The judgment was announced on 17 September 2014 and two accused persons were convicted to 6 month suspended sentences and they were obliged to pay jointly EUR 4250 for damaging the state budget, while 11 others were freed of charges due to lack of evidence on their involvement.

On 26 August 2014 the Parliament of Montenegro announced a competition for the election of the **president and members of the new State Electoral Commission**. On 19

September 2014, the Administrative Committee of the Parliament endorsed the list of candidates for the president and members of the State Electoral Commission. **The plenary session in which their election is planned is scheduled for 7 October 2014.**

Implementation of constitutional reforms/election of key judges and prosecutors

All ten members of the Judicial Council, which was constituted in July in compliance with constitutional amendments, were elected and its president was appointed. Furthermore, all members of the Prosecutorial Council were elected; this authority already started its work in February. On 27 December 2013, the Parliament elected seven judges of the Constitutional Court who elected their president.

Following the unsuccessful election of the Supreme Public Prosecutor in the first iteration during the first half of this year, on 22 July 2014 the Prosecutorial Council proposed to the Parliament of Montenegro a candidate for the Supreme Public Prosecutor, who did not receive the required two-thirds majority in the first vote on 25 July 2014. In compliance with the prescribed procedure established by constitutional amendments, hearing of the remaining candidates for the Supreme Public Prosecutor was held on 23 September 2014 before the Committee for Judiciary and Administration. **Second round of voting (with three fifths majority) in the plenary session of the Parliament is scheduled for 7 October 2014.**

High level corruption and organised crime cases

Older cases

In the **Zavala** case, on 17 July 2014, the High Court in Podgorica convicted the former president of the Municipality of Budva Rajko Kuljača to five years of prison and the secretary for investments Dragan Marović to four years of prison, due to the fact that they abused their office and obtained the illicit pecuniary gain to the company Zavala Invest, and inflicted damage to the municipal budget in the amount of EUR 821 600. Former Member of the Parliament Đorđe Pinjatić was convicted to three, whereas six more persons were convicted to two years of prison each, due to the fact that they premeditatedly assisted to Kuljača and Marović. Dragan Sekulić was convicted to three and a half years of prison due to the criminal offence of abuse of office through incitement.

In the **Kalić** case the indictment was submitted on 25 December 2011, due to continued criminal offence of money laundering. Safet Kalić is currently on the run and all Montenegrin authorities are dedicated to locating and arresting him. The INTERPOL Bureau in Montenegro is currently analysing all possible identities under which Kalić might be hiding, in order to determine his location and arrest him. The main hearing started on 30 May 2012 before the High Court in Bijelo Polje; however, the case was taken by another judge on 3 October 2012 following the resignation of the president of the Panel. The amended indictment was submitted on 11 September 2014, and the same accused persons

are accused/suspected of committing the criminal offence of money laundering in the amount of EUR 7.8 million (EUR 8.5 million in earlier indictment).

Retrial in the **Šarić** case started on 23 April 2013 in the High Court in Bijelo Polje. Ten main hearings were held in the repeated procedure – the last on 22 November 2013. On 30 December 2013, Duško Šarić and Jovica Lončar were convicted to five and a half years of prison each for the criminal offence of money laundering in the amount of EUR 19 million. After four years spent in detention Šarić and Lončar were released on 23 April 2014 by decision of the Appellate Court. The Appellate Court adopted such decision after the Constitutional Court accepted the appeal, which was submitted by the attorney of the accused persons regarding the duration of detention. On 29 July 2014, the Appellate Court abolished the judgment against Šarić and Lončar and returned the case for retrial.

Recent cases

The indictment **in the CKB case** was submitted on 21 March 2014, and the trial began on 15 May 2014. Continuation of the trial was planned for 25 - 27 June 2014, but it was postponed for 16 September 2014 on the request of the defence, and postponed again for 27 October 2014, also on the request of the defence. In this case, the former managers of the *Crnogorska komercijalna banka* are charged with obtaining of the illicit pecuniary gain through unlawful actions, and inflicting pecuniary loss in the total amount of EUR 6.92 million to the injured party i.e. the CKB.

In the **Košljun** case, on 27 June 2014 the Special Prosecutor's Office submitted indictment against Lazar Rađenović on charges of abuse of office and unlawful keeping of weapons and explosives; against Advisor to the Prime Minister Aleksandar Tičić on charges of abuse of office; former director of Prva banka (First Bank) Jelica Petričević and a citizen of Budva Vido Rađenović on account of the criminal offence of assisted abuse of office.

The **criminal report against the president of the Municipality of Ulcinj**, the former director of the Public Water Supply Company of Ulcinj was processed on 10 June 2014, due to the reasonable suspicion that he committed the criminal offence of abuse of office, thus inflicting material damage in the amount of EUR 160.000.

In the period 1 April - 1 August 2014, the officers of the Department for Fight against Organised Crime and Corruption were involved in criminal investigation in several cases - **26 cases** at the international level and 41 cases at the national level under jurisdiction of the Special Public Prosecutor's Office (17 cases), the Supreme Public Prosecutor's Office (17 cases) and the Basic Public Prosecutor's Office (26 cases).

In the period from 1 January to 1 August 2014, 660 kg of narcotic drugs were seized in the territory of Montenegro in 241 separate operations. On 4 June 2014 the officers of the Smuggling Suppression Department thoroughly checked containers in the **Customs Office - Free Zone of Bar** and found **narcotic drug cocaine in the amount of 223 packages, weighting 250 kg the market value of which exceeds EUR 12.5 million.**

Freedom of the media

On 19 June 2014 the Government of Montenegro took note of the four-month report of the **Commission to follow up cases of violence against journalists** for the period February-May. Members of the Commission without a licence have got the licence for the access to confidential data. Two offices have been equipped for the needs of the Commission. One of the offices is in the seat of the Ministry of Interior, equipped in line with the Law on Data Confidentiality (safety zone II) where the confidential data can be processed, and the other office serves for holding regular meetings of the Commission members and reception of guests.

Regarding last year's cases of violence against journalists, Montenegrin law enforcement agencies conducted comprehensive activities which resulted in their swift solving: In the case of the bomb attacks on the Vijesti Building two suspects were arrested on 8 March 2014 and the trial started on 2 July 2014; in the case of attack on Lidija Nikčević six persons were arrested on 28 March 2014 and the trial started on 30 April 2014; in the case of attack on Tufik Softić suspects were arrested on 17 July 2014. Also in the case of setting fire to the vehicles of Vijesti on 12 February 2014, prosecution was filed on 12 September 2014 against two police officers who failed to protect the property of this daily while on duty. For the last 8 months no other cases of violence against the media have been registered.

On 2 August 2014 the Prime Minister gave a statement before the Supreme Public Prosecutor's Office regarding the case of the murder of Duško Jovanović, which represents good support in solving this case. The Deputy Prime Minister also gave a statement before the Supreme Public Prosecutor's Office on 30 June 2014 in the same process. In the same case, the Supreme Public Prosecutor's Office is in the process of granting the protected witness status for one person who might contribute to full resolving of the case.

All cases created on account of attacks against journalists and media were given priority in work. For the purpose of suppression of this kind of criminal acts, continuous activities are taken with the aim of finding the perpetrators. According to the valid laws, the statute of limitations in the unsolved cases of violence against journalists cannot expire soon, especially in the most severe case of the murder of Duško Jovanović where the statute of limitations expires only in 2039.

As part of the preventive measures which are taken by the Police Administration for the purpose of protecting journalists, an activity is ongoing with the aim of securing two journalists, one editorial office and their official vehicles, with constant escort and protection by the police officers.

Activities in cooperation with the OSCE Mission to Montenegro, as well as with the experts from the OSCE seat in Vienna are ongoing with a view to improving media self-regulation, as well as providing support to the work of media. OSCE representative on the freedom of media Dunja Mijatović paid a visit to Montenegro on two occasions and she worked there

with representatives of media and the Government of Montenegro on improving media self-regulation. In the previous period Montenegrin representatives at the highest level (presidents of the state, Government, Parliament and line Ministers) continuously made statements in support of media freedom and strived to contribute to the improvement of the overall media environment.

Key activities in building the legislative framework in the area of rule of law

The following were drafted: *Draft Law on Special Prosecutor's Office, amendments to the Law on Courts, Law on Public Prosecutor's Office, Law on Courts and the Law on the Constitutional Court*, all of which were subject to public discussion and were sent to the Venice Commission. The Venice Commission is expected to provide preliminary opinion during November and it will be verified at the session in December. Thus conditions will be created for passing of these laws that will further strengthen the independence of the judiciary and the institutional framework for combating organized crime and corruption.

The Draft Law on Prevention of Corruption is also completed and submitted to the European Commission for opinion; it further defines and builds the preventive anti-corruption framework, creating pre-conditions for the formation of the Anti-Corruption Agency as a body which will primarily have jurisdiction in prevention of corruption, prevention of conflict of interest and control of financing of political parties. In addition, the Draft Law on Prevention of Conflict of Interest was drafted and submitted to the European Commission for opinion. Both of these laws were subject to the procedure of public discussion.