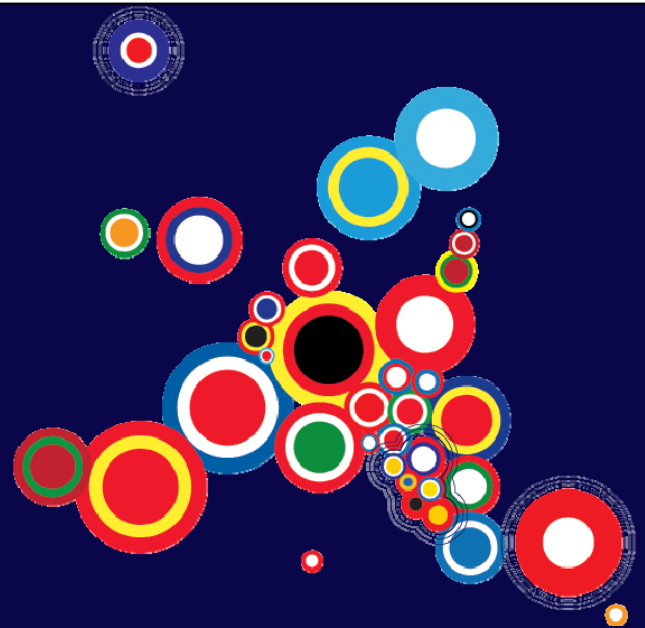




INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

MONTENEGRO

Support to the Implementation of Chapters 23 and 24 Action Plans



Action summary

The Action will support Montenegro to implement Chapters 23 and 24 Action Plans in line with EU standards and best practices.

The Action addresses the issues of efficiency of judiciary, as well as challenges in harmonisation of legislation and application of best practices in terms of prevention and suppression of corruption. The Action will also contribute to strengthen the efficiency of the judiciary and to prevent and counter corruption and organised crime.

The Action aims at providing further support to judicial reform and implementation of national strategic documents, full harmonisation of legislation with the EU, and developing and introducing best practice. The Action seeks to support further development of the capacities of institutions involved in prevention and repression of corruption and organised crime, by creating conditions for more efficient investigations of severe criminal offences.

Action Identification	
Action Programme Title	Annual Action Programme for Montenegro (2014)
Action Title	Support to the implementation of Chapters 23 and 24 Action Plans
Action Reference	IPA2014/037-803.7/ME/actionplans
Sector Information	
IPA II Sector(s)	Rule of Law and Fundamental Rights
DAC Sector	15113
Budget	
Total cost	EUR 3.6 million
EU contribution	EUR 3.6 million
Management and Implementation	
Method of implementation	Direct management
<i>Direct management:</i> EU Delegation	EU Delegation to Montenegro
Implementation responsibilities	/
Location	
Zone benefiting from the action	Montenegro
Specific implementation area(s)	/
Timeline	
Deadline for conclusion of the Financing Agreement	At the latest by 31 December 2015
Contracting deadline	3 years following the date of conclusion of the Financing Agreement, with the exception of the cases listed under Article 189(2) Financial Regulation
End of operational implementation period	6 years following the date of conclusion of the Financing Agreement

1. RATIONALE

PROBLEM AND STAKEHOLDER ANALYSIS

The key challenges faced by Montenegro in the rule of law area concern the efficiency of the judiciary and the fight against corruption and organised crime.

The problems and needs concerning the efficiency of the judiciary include the backlog of cases, the long duration of judicial proceedings, rationalisation of the judicial network, significant number of non-enforced judicial decisions, the limited use of alternative dispute resolution, and the inadequacy of IT systems and solutions.

In relation to the prevention and fight against corruption and organised crime, the main needs to be addressed include the upgrading and effective implementation of the legal and regulatory framework, strengthening the institutional framework, enhancing the administrative capacity and inter-agency cooperation and coordination, improving IT systems.

The key stakeholders in this area are the Ministry of Justice, the Ministry of Interior/Police Administration, the State Prosecution Office, the Courts, the Ministry of Finance/Customs Administration and Tax Administration, the Administration for the Prevention of Money Laundering and Terrorism Financing, the Judicial Training Centre, the Administration for Anti-Corruption Initiative.

Additional information on the problem and stakeholder analysis is outlined in Annex 2.

RELEVANCE WITH THE IPA II INDICATIVE STRATEGY PAPER (OR MULTI-COUNTRY STRATEGY PAPER) AND OTHER KEY REFERENCES

The Action addresses the priorities of the *Indicative Strategy Paper for Montenegro (2014-2020)* including strengthening the efficiency and professionalism of the judiciary, the rationalisation of the judicial network, the reduction of the backlog of cases, improving the access to justice, insufficient number of courtrooms, further harmonisation with EU legislation, and specialisation of courts. Other reform priorities in the area of judicial efficiency are the strengthening of the system of enforcement of judgements as well as the introduction of a reliable system of judicial statistics, which provides all relevant data on the performance of courts and judges and will also be used as a management tool for allocating human and financial resources. Other priorities identified in the ISP are the strengthening of the legal and institutional framework for the prevention and suppression of corruption, the improvement of interagency coordination, and the consolidation of a solid track record of corruption and organised crime cases.

The *Stabilisation and Association Agreement (SAA)* underlines the importance of the consolidation of the rule of law, law enforcement and the administration of justice in particular. The SAA stresses that co-operation will aim at strengthening the independence of the judiciary and improving its efficiency.

Montenegro 2014 Progress Report stresses the need to improve court management and court performance by developing a human resources strategy and setting the standards for the workload of judges and for proceedings for specific types of cases to reduce the backlog of cases. In relation to the prevention and suppression of corruption of organised crime, the *Progress Report* outlines the need to consolidate a track record of cases in this area, and to improve coordination between law enforcement agencies and the judiciary and to increase capacity to carry out financial investigations.

SECTOR APPROACH ASSESSMENT

As part of the requirements stemming from the opening benchmarks for Chapters 23 and 24, Montenegro adopted the *Action Plans for Chapters 23 and 24* which define the framework of the reform in this area.

IPA II assistance for the period 2014-2020 will support the implementation of the national strategies in this area and specifically the implementation of Chapters 23 and 24 Action Plans.

Montenegro's main strategies in this area include the *Judicial Reform Strategy (2014-2018)* and the *Strategy and Action Plan for the Fight against Corruption and Organised Crime (2013-2014)*.

The Ministry of Justice is the key leading institution for the Rule of Law and Fundamental Rights sector and has an overall coordination role of the key stakeholders in this sector regarding implementation of EU financial assistance.

Donor coordination in this area is led by the Ministry of Justice and the Ministry of Interior and meetings with donors and international organisations are organised on a regular basis.

LESSONS LEARNED AND LINK TO PREVIOUS FINANCIAL ASSISTANCE

Lessons learned from previous and ongoing technical assistance actions include the need to (a) strengthen interagency coordination and cooperation, (b) measure the impact of capacity building/training through specific indicators, (c) ensure the stakeholders proactive participation during project implementation, (d) focus on the sectoral approach for actions in the Rule of Law and Fundamental Rights sector. These lessons learned were taken into consideration for the design of this Action and will be observed during its implementation.

Annex 3 shows the list of relevant past and ongoing projects.

2. INTERVENTION LOGIC

LOGICAL FRAMEWORK MATRIX

OVERALL OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	
To strengthen judiciary and law enforcement institutions in order to meet the criteria for Montenegro accession to the EU.	Rule of Law in Montenegro fully in line with EU standards and best practice	Reports on fulfilment of interim benchmarks Reports on implementations of Action plans 23 and 24	
SPECIFIC OBJECTIVE	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS
To support Montenegro to strengthen the efficiency of the judiciary and to counter corruption and organised crime.	Chapters 23 and 24 Actions Plans are implemented in line with EU standards and best practices as confirmed by the EC Progress Report A solid track record of organised crime and corruption cases is established.	Reports by Montenegrin Government to the EU EC Progress reports Annual Report of the Supreme Court Annual Report of the Supreme State Prosecution Office GRECO reports National crime statistics EU peer review mission report	Continuing Political commitment to EU Accession and for full transposition of Chapters 23 and 24 <i>acquis</i>
RESULTS	OBJECTIVELY VERIFIABLE INDICATORS (OVI)	SOURCES OF VERIFICATION	ASSUMPTIONS

<p>R1: Enhanced efficiency of the Judicial system (MoJ, court authorities and prosecutors)</p> <p>R2: Effective enforcement of legislation concerning the fight against organised crime and corruption. This includes the enhancement of financial investigations capacity and the coordination mechanism of the State Prosecution Office, Police, courts authorities, AML Administration, Customs Administration, Tax Administration</p> <p>R3: Support to the programming of IPA assistance and to the monitoring of the implementation of possible Sector Budget Support programmes in the rule of law sector is provided</p> <p>R4: Effective enforcement of integrity plans, thus contributing to prevention of corruption</p>	<p>Average duration of trials</p> <p>CEPEJ indicators</p> <p>Rationalisation plan and preliminary and final design (<i>Master plan</i>) for courts and prosecutor's network is prepared</p> <p>Increase in the track record of organised crime and corruption cases detected and prosecuted (vs. estimated no. of total cases)</p> <p>Increase the absorption capacities of IPA and SBS programme</p> <p>Number of integrity plans being adopted and implemented throughout the public administration</p>	<p>Reports by Montenegrin Government to the EU</p> <p>EU Progress reports</p> <p>Single semi-annual reports to the EU on implementation of the measures from the AP 23 and 24</p> <p>EU Peer review mission reports</p> <p>Annual Report of the Supreme Court</p> <p>Annual Report of the Supreme State Prosecution Office</p> <p>Annual reports about implementation of Sector Budget Support prepared</p> <p>CEPEJ Evaluation reports- biannual</p> <p>Action reports</p>	<p>The BCs Governments and stakeholders collaborate fully with the Action team</p> <p>Staff recruited appropriately and remain in place</p> <p>Budgets are developed</p> <p>All relevant organisations are prepared to engage fully with the process of developing procedures in line with EU best practice</p> <p>All stakeholders jointly work towards full implementation of Action outputs</p>
<p>ACTIVITIES</p>	<p>MEANS</p>	<p>OVERALL COST</p>	<p>ASSUMPTIONS</p>

<p>R1.A1. Support the enhancement of court and prosecutor authorities' efficiency in terms of case management and workflow, judicial statistics and procedures, modern management skills including:</p> <ul style="list-style-type: none"> - Support in decreasing of workload (inflow of cases) of the courts by transferring competencies over inheritance cases to notaries, and by transferring over of enforcement cases from the court to Public Enforcement Offices; - Enforcement of ADR and Public Enforcement Offices; - Support to carrying out the analysis for the rationalisation of courts and prosecutor's premises in accordance with Plan of Rationalisation of Judiciary network; - Carrying out a feasibility study and preparing the preliminary design and a detailed design (Master Plan) for the improvement of judicial infrastructure with clear definition of priorities, budgetary and capacity resources needed. <p>R2A1:Strengthening the financial investigations capacity and the coordination mechanism among the State Prosecution Office, Police, courts authorities, AML Administration, Customs Administration, Tax Administration including:</p> <ul style="list-style-type: none"> - Capacity building/training support; <p>Inter-agency and international co-operation R3A1:Support to programme IPA assistance and to monitor the implementation of possible Sector Budget Support programmes in the rule of law area.</p> <p>R4A1: Support to implement integrity plans throughout the Montenegrin administration including capacity building and training of staff responsible for the coordination, monitoring and implementation of corruption preventive mechanisms.</p>	<p>Grant to EU Member States for both the efficiency of the judiciary and repression of corruption and organised crime components</p> <p>Twining contract for prevention of corruption component</p>	<p>EUR 3 600 000</p>	<p>Adequate absorption capacity of beneficiary institutions</p> <p>Successful finalisation of IPA 2012 project <i>EU Support to the Rule of Law (EU RoL)</i></p>
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ADDITIONAL DESCRIPTION

The Action will support Montenegro to implement Chapters 23 and 24 Action Plans in line with EU standards and best practices related to judiciary, access to justice and law enforcement.

The Action will contribute to strengthen the efficiency of the judiciary, by supporting operational capacities of relevant institutions in terms of case management, workflow and analytical/statistical capacities, supporting ADR etc. The expected results of this Action will also contribute to activities regarding overall rationalisation of courts and prosecutor's network by preparing a master plan for optimisation of judicial infrastructure.

The financial investigations capacity and interagency coordination will be strengthened among the key stakeholders. Preventive mechanisms will be enhanced by the effective enforcement of integrity plans throughout the Montenegrin administration.

The Action will contribute to strengthen international and regional cooperation considering the transitional features of organised crime and corruption which require a response at national, regional and international level.

All measures and activities will support Montenegro in delivering results in terms of interim benchmarks in this area.

3. IMPLEMENTATION ARRANGEMENTS

ROLES AND RESPONSIBILITIES

The key stakeholders in this area are the Ministry of Justice, the Ministry of Interior/Police Administration, the State Prosecutor's Office, the court authorities, the Ministry of Finance/Customs Administration and Tax Administration, the Administration for the Prevention of Money Laundering and Terrorism Financing, the Judicial Training Centre, the Administration for Anti-Corruption Initiative.

The Ministry of Justice has a key coordination role for the Rule of Law and Fundamental Rights sector and specifically for the implementation of Chapter 23 Action Plan. The Ministry of Interior is in lead for the Chapter 24 Action Plan implementation.

IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING

As far as the EU contribution is concerned, the action will be implemented through the following contracts:

- one grant contract for an indicative amount of EUR 3 million awarded through a call for proposals restricted to the EU Member States or mandated bodies for the efficiency of the judiciary and financial investigations component. The amount to be made available for the grant contract is EUR 3 million. The grant will be fully funded by the EU, and no co-financing from the EU Member States will be required, being in the interests of the EU to be the sole donor of this action and to ensure the EU visibility. Moreover, this project will contribute to the protection and upholding of fundamental rights.
- one twinning contract for an indicative amount of EUR 0.6 million for the integrity plans component.

4. PERFORMANCE MEASUREMENT

METHODOLOGY FOR MONITORING (AND EVALUATION)

Monitoring and evaluation of the implementation of this Action will be conducted in accordance with the rules of direct management and respecting the requirements and provisions of IPA II regulations and those that will be laid down in the Framework Agreement and in respective the Financing Agreement. Achieving of the Action results will be regularly monitored by the EU Delegation to Montenegro and National IPA Coordinator.

Implementation of this Action will be subject of special attention of Sectoral Monitoring Committee and IPA Monitoring Committee which shall measure progress in relation to achieving the objectives of the actions and their expected outputs, results and impact by means of indicators related to a baseline situation, as well as progress with regard to financial execution. The Sectoral Monitoring Committee will report to the IPA Monitoring Committee and will make proposals on any corrective action to ensure the achievement of the objectives of the action and enhance its efficiency, effectiveness, impact and sustainability.

Moreover, in accordance with Article 8 of the Commission Implementing Regulation (EU) No. 447/2014, NIPAC shall take measures to ensure that the objectives set out in the Action are appropriately addressed during the implementation of EU assistance. Procedures for implementing monitoring activities will be set out in the revised Manuals of Procedures aligned with new IPA regulations. Best practices from the monitoring of implementation of previous actions and recommendations given by external monitoring in this sector will be also taken into consideration.

This action shall be subject to evaluations, in accordance with Article 30(4) of Regulation (EU, EURATOM) No. 966/2012 and with Article 22 of the Commission Implementing Regulation (EU) No. 447/2014. The results of evaluations shall be taken into account by the IPA Monitoring Committee and the Sectoral Monitoring Committee.

INDICATOR MEASUREMENT

INDICATOR	DESCRIPTION	BASELINE 2010	LAST 2013	MILESTONE 2017	TARGET 2020	SOURCE OF INFORMATION
<i>ISP INDICATOR: ACCESS TO JUSTICE AND JUDICIAL INDEPENDENCE</i>	Composite indicator (average of Access to Justice and Judicial independence)	4,1	3,4	Progress made in comparison to 2014 baseline	Further progress made in comparison to 2017 milestone	World Justice Project, World Economic Forum
<i>ISP INDICATOR: GLOBAL CORRUPTION AND CONTROL OF CORRUPTION</i>	Composite indicator (average of Global Corruption and Control of Corruption) 1 (Worst) - 100 (Best)	45,238	49,51	50.5-52	52.5-54	Transparency International, World Bank
<i>ACTION OUTCOME INDICATOR 1: CHAPTERS 23 AND 24 ACTION PLANS</i>	Chapters 23 and 24 Action Plans are implemented in line with EU standards and best practices	Action plans did not exist in 2010	Action Plans adopted	Improvements in the indicators of impact in the Action Plans for chapter 23 and 24, and Montenegro on track for meeting the interim benchmarks.	100% the Action plans implemented, and Montenegro on track for meeting the interim benchmarks.	EC Progress Report EU Agencies and International Organisations reports Government reports
<i>ACTION OUTCOME INDICATOR 2: TRACK RECORD</i>	Track Record of organised crime and corruption cases	The track record of investigations, prosecutions and final convictions in corruption cases at all levels remains low. Although, operational and investigative capacities of the law enforcement authorities have been strengthened, it remains weak.	Progress in developing a track record of investigation, prosecution and conviction in corruption cases remains limited, especially with regard to high-level corruption cases. There were no final convictions in high-level corruption cases	Consolidation of the track record	Further improvement of the track record	EC Progress Report EU Agencies and International Organisations reports Government reports Reports of the State Prosecution Office Reports of the Supreme court of Montenegro
<i>ACTION OUTPUT INDICATOR 1 : TRIALS DURATION</i>	Average duration of trials	Average length of proceedings in 4 types of cases – litigious divorce cases, employment dismissal cases, robbery, intentional homicide (CEPEJ indicators), Evaluation 2012 (2010 data)	Average length of proceedings in 4 types of cases – litigious divorce cases, employment dismissal cases, robbery, intentional homicide (CEPEJ indicators), Evaluation 2014 (2012 data)	Progress made in comparison to 2014 baseline	Further progress made in comparison to 2017 baseline	Annual report of the Supreme Court of Montenegro CEPEJ Evaluation reports
<i>ACTION OUTPUT INDICATOR2: CEPEJ</i>	CEPEJ indicators, in particular: evolution of	2012 Edition report (2010 data)	2014 EDITION REPORT	Progress made in comparison to 2014	Further progress made in	Evaluation of judicial systems report (bi-annually)

INDICATOR	DESCRIPTION	BASELINE 2010	LAST 2013	MILESTONE 2017	TARGET 2020	SOURCE OF INFORMATION
	<ul style="list-style-type: none"> • Number of court cases solved per year • Number of pending cases at the end of the year • Length of trials/disposition time <p>To measure the efficiency of the enforcement system through bailiffs: evolution of</p> <ul style="list-style-type: none"> • Number of cases successfully solved • Recovery rate <p>To measure use of ADR:</p> <ul style="list-style-type: none"> • Evolution of number of cases referred to and solved through mediation 		(2012 DATA)	values	comparison to 2017 milestone	
<i>ACTION OUTPUT INDICATOR 3: MASTER PLAN</i>	Rationalisation plan and preliminary and final design (master plan) for courts and prosecutor's network is prepared and adopted	Justice reform strategy 2007-2013 does not include a rationalisation plan	Justice reform strategy 2014-2018 does not include a rationalisation plan	Adoption of a medium-term plan for rationalisation (2017-2019)	Progress with the implementation of the medium-term plan for rationalisation (2017-2019)	Government reports Medium term plan for rationalisation
<i>ACTION OUTPUT INDICATOR 4: INTEGRITY</i>	- Number of integrity plans being adopted and implemented throughout the public administration	10 institutions adopted integrity plans	37 institutions adopted integrity plans	100% of institutions within public administration adopted integrity plans	Efficient and professionalized public administration All institutions have adequately prepared and successfully implemented integrity plans	EC Progress Report EU Agencies and International Organizations reports Report of the Anti-corruption Agency

5. CROSS-CUTTING ISSUES

ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)

Environmental issues will be addressed through the preparation of the master plan for the rationalisation of the court networks in line with the requirements of legislation in the area of environment protection and the understanding of saving natural resources.

ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)

Inputs from the civil society representatives have been taken into consideration during the problem analysis phase which was instrumental to produce the Action design. Civil society will be involved during implementation of the Action, for instance within the framework of round table discussions, workshops and seminars. NGOs are involved in the policy making and monitoring process and contributed to the preparation of the *Justice Reform Strategy 2014-2018*, and the *Strategy and Action Plan for the Fight against Corruption and Organised Crime*. Representatives of the NGOs are part of the working groups responsible for the negotiation of Chapters 23 and 24.

EQUAL OPPORTUNITIES AND GENDER MAINSTREAMING

Gender balance is applied. The reform of the judiciary and law enforcement sector will aim at providing equal opportunities and non-discrimination principles for women in terms of access to employment, promotion, equal wages, and social benefits. The Action will take into account gender and equal opportunities issues during implementation, including ensuring a gender balance with regard to capacity building/training activities.

MINORITIES AND VULNERABLE GROUPS

Minority issues will be taken into account during the implementation of the Action, in particular with regard to access to justice and public services. The Action will take the required steps to assure that the internal policies, structure or operating procedures of the beneficiary will conform with or promote minority issues. The action of reform the judicial and law enforcement system should assist in implementing mechanisms to ensure equitable representation of ethnic minorities so as to reflect the ethnic diversity of Montenegrin society.

6. SUSTAINABILITY

The sustainability of the Action will be ensured by the beneficiary institutions which are committed to provide the necessary human and financial resources during implementation. The Action is linked to the policy and strategic framework in the justice and home affairs area and represent continuum with regard to previous reform in this area. Montenegro political commitment to EU accession and to the transposition of Chapters 23 and 24 *acquis* will be instrumental to ensure the sustainability of the Action.

7. COMMUNICATION AND VISIBILITY

Communication and visibility will be given high importance during the implementation of the Action.

The implementation of the communication activities shall be the responsibility of the beneficiary, and shall be funded from the amounts allocated to the Action.

All necessary measures will be taken to publicise the fact that the Action has received funding from the EU in line with the Communication and Visibility Manual for EU External Actions.

The use of *Communication and Visibility Manual for EU External Actions* is compulsory. The contractor shall use the appropriate stationery in letterheads or fax headers sheets and report presentation format, but should add the phrase “*This Action/programme is funded by the European Union*” as well as the EU flag when relevant. Elements of the communication strategy may include: press release, press conferences, leaflets and/or brochures, newsletters, web pages, vehicle panels, promotional items, reports, audio-visual productions. Any supplies or equipment delivered under an EU-funded Action must be clearly identified and must visibly carry the EU logo and the mention “*Provided by the support of the EU*” in the operational language of the EU programme and in the local language.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions. Visibility actions should also promote transparency and accountability on the use of funds.

It is the responsibility of the beneficiary to keep the EU Delegation fully informed of the planning and implementation of the specific visibility and communication activities.

The beneficiary shall report on its visibility and communication actions in the report submitted to the IPA Monitoring Committee and the Sectoral Monitoring Committees.

LIST OF ANNEXES

- 1. Additional information on the problem and stakeholder analysis;**
- 2. List of relevant past and ongoing projects.**

ANNEX 1

Additional information on the problem and stakeholder analysis

Efficiency of judiciary

Montenegro adopted the new *Judicial Reform Strategy* for period 2014-2018. The Strategy defines efficiency as one of the greatest challenges. Efficiency of judiciary is the most demanding area of justice reform, in expert, material and technical terms. For that reason, shortcomings which Montenegrin judiciary is facing during the reform are recognised in this area. The Strategy identifies main issues that overburden efficiency of judicial system, stating that these are: backlog of cases, long judicial proceedings and inadequate judicial network. Therefore, challenge exists – need to work on rationalisation of the judicial network, based on CEPEJ indicators on number of judges, prosecutors, non-judicial and non-prosecutorial staff, as well as on the geographical positions of the courts. Centralisation of competences will increase efficiency. On 31st December 2013, there were 4 251 cases older than 3 years in courts in Montenegro, including all types of cases. These are cases from 2010 and earlier. Having in mind that large number of non-enforced judicial decisions remains a significant issue as well as long procedure of enforcement, newly established system of public bailiffs should be fully implemented. Furthermore, there is a need that judiciary authorities pay particular attention to improving of management.

The *Judicial Reform Strategy* aims to increase efficiency of judiciary by combining several measures, which should be focused on the following areas: rationalisation of the judiciary network and misdemeanour system; further development of criminal and civil legislation; reducing of backlogs; improving system of management and administration in the judiciary; improving use of alternative dispute resolution; developing of Judiciary Informational System (PRIS).

IPA 2012 *EU RoL* Project will address the issues of efficiency within the judiciary by supporting reform of the judiciary, in terms of its management and organisation, and in the support to the performance and continued development of PRIS. Therefore, this Action shall be the upgrade of certain activities that will start through the existing *EU RoL* Project supporting the judiciary reform. This is mainly referring to rationalisation of the court network and informatisation of the judiciary.

Matter of rationalisation of the court network, as well as further improvement of PRIS, are encompassed with the *Action Plan for Chapter 23*. Action plan contains measures whose implementation shall improve efficiency of the judiciary. In defining goals and measures from the Action Plan, recommendations from the European Commission were closely followed, which inter alia identified the need to provide reliable legal statistics, and the need to revise and rationalise judicial network.

In terms of rationalisation of network of judiciary authorities, it must be stated that from *CEPEJ Report* it can be seen that Montenegro, comparing to the European average, is high above comparative accepted standards (basic indicators) for determining the court network, meaning: number of courts and geographical position of courts on 100 000 inhabitants, as well as number of state prosecutors and other employees in courts and state prosecution offices. This shows the need for rationalisation of court network. Results of the analysis for the needs of rationalisation of the judicial network (which was adopted by the Government in 2013), which relies on the CEPEJ standards, showed the uneven number of judges in relation to need of existing of courts – the consequences are that the judges of the same level do not have equal workload, depending on the territorial jurisdiction. There is also the need for legislation and institutional changes. In the following period, in order to provide higher efficiency of the system, it is necessary to follow the implementation of the *Plan of Rationalisation 2013-2015* which was brought based on the mentioned analysis, to establish criteria for defining the minimum number of judges that justifies the existence of the court, and to support the relief of the courts in terms of taking over inheritance cases by notaries, and enforcement cases by public bailiffs. These activities correspond to AP 23, measures 1.4.2.3, 1.4.2.4, and 1.4.2.5. The IPA 2012 *EU RoL* Project will support the Ministry of Justice and courts in adopting procedures, in line with CEPEJ standards, to monitor the

duration of trials and use such data to support the analysis of the functioning of the courts and prosecution office networks.

In order to be able to monitor and further improve results of important novelties defined with the analysis and the *Action Plan of Rationalisation*, it is necessary to adopt mid-term Rationalisation Plan (2017-2019), which will take into consideration the indicators of productivity of work in courts as well as the indicators of average time for solving certain types of cases. This will enable better use of human resources, which will finally lead to more efficient judicial system that will work more efficiently with less courts, judges and administrative staff.

Rationalisation of the courts and prosecutors network can provide full results only if, following the functional merging, Montenegro performs physical merging of the courts and prosecution offices as well. In order to enforce physical merging, conditions must be met to move all judges and non-judicial staff into one building – spatial and working conditions must be met. Since this is the matter of a large action, there is a need to define master plan of rationalisation and merging of courts and prosecution office, which will define priorities and dynamics of merging certain judicial bodies. Master plan shall be relied on results of *EU RoL Project*, which are related to rationalisation of the court network. Furthermore, in order to execute all necessary activities for physical merging of the courts, it will be necessary to prepare all the documentation (design and architecture solution) for priority judiciary bodies – in order to be able to perform construction works in the period to come, for physical merging of the courts and prosecution offices. Activities in this regard could be done in two phases:

- Phase 1 will be conducted to carry out a feasibility study and prepare a preliminary design;
- Phase 2 will produce a detail design.

Internal operation of the courts is organised so that the court can perform its function in lawful, timely and effective manner and to allow the parties as soon as possible and with less cost to exercise their rights under the law. Court administration encompasses affairs of internal organisation defined by specific laws, which provide conditions for regular and effective exercise of judicial power, managing human resources, material resources, space and other work conditions, managing and developing judicial information system, supervision over following deadlines and other conditions for the proper and timely performance and work of the court. The head of the court administration is the president of the court, and in the larger courts these are being performed through activities of secretaries of the court and other officials which help the president of the court in the performing those functions. Heads of the state prosecution office perform affairs of prosecutorial administration – management includes activities that ensure proper and timely public prosecution, and in particular internal schedule of tasks, review of complaints, management Information system, record keeping and reporting, work of archive, financial affairs etc. These correspond to Action plan Chapter 23: 1.1.4.; 1.4.2.; 1.4.3.

Judicial institutions so far did not pay sufficient attention to the improvement of the judicial management. Court presidents and heads of state prosecution offices have not had training in management and leadership. Therefore, there is a need for special training programmes for improving judicial management for court presidents and public prosecutors, and for the secretaries of the courts. It should be noted that the IPA 2012 *EU RoL* project deals both with improving the management and organisation of the Ministry of Justice, and on the courts and the prosecutor's office. This support will also extend to providing training programmes and mentoring on both management and leadership to management within the judicial institutions. These activities correspond to AP 23, measures under 1.4.

Alternative dispute resolution contributes to faster and more efficient solving cases and the peaceful resolution of disputes in the framework of the principle of access to justice allow citizens and business entities to settle disputes outside the judicial system. The application of alternative dispute resolution reduces the workload of the courts and state prosecution offices through faster, cheaper and more comfortable solving disputes. Montenegro has established adequate regulatory framework for alternative dispute resolution and the current implementation is given some results but requires constant development and monitoring of application, having in mind that judicial bodies are not sufficiently

using possibility to address the parties to alternative dispute resolution, and that the public is not sufficiently aware of the benefits of this institute. In particular, there would be a room for promotion of mediation in legal cases in which the respondent is the State of Montenegro, in order to avoid unnecessary legal costs. In business relationships, arbitration should have an important place in solving conflict situations. This will be accomplished through various activities targeting capacity building, further upgrading of legal/regulatory framework and awareness raising campaigns.

The *Judicial Reform Strategy 2007-2012*, in a special section, for the first time defines strategic framework of the application of information technology in the field of justice in Montenegro. Given the importance of this area, as one of the most important segments of the information society in general, special ICT Strategy in the area of judiciary was adopted for the period 2011-2014. The *ICT Strategy for Justice* is dedicated to the development and improvement of the Judicial Information System (PRIS) as a single information system of courts, prosecutors' offices, the Institute for Execution of Criminal Sanctions and the Ministry of Justice, which as such works since 2010. Despite the many successes achieved in the past, there have been some issues and shortcomings. The current development of PRIS was largely focused on the courts, while the prosecution offices and the Ministry of Justice were insufficiently linked to PRIS. Nevertheless, development of PRIS is constant process for which EU RoL will set grounds for. Therefore, it is necessary to proceed with the continued support to the further development of PRIS so it would contribute to increasing the efficiency of the judiciary as a whole. In order to properly define the policy of the judiciary, it is essential that the Ministry of Justice has direct access to PRIS and to raise analytical skills regarding the monitoring of statistical data in the judiciary. The IPA 2012 *EU RoL* Project will support the Ministry of Justice, Judicial Council and Prosecutorial Council in identifying statistical indicators, in line with CEPEJ standards, for analysis and estimation of functioning of the judicial system. It will also define a Judicial IT Strategy to enable PRIS to link up more effectively with all necessary components across all sectors of the judiciary and across all relevant parts of the prosecutor offices. Furthermore, the prosecution offices should quickly follow other prosecution systems in terms of informatisation, so that using of information technology would raise the level of disclosure and the prosecuting corruption and organised crime. The IPA 2012 *EU RoL* project will also provide assistance to the prosecutors to prepare and deliver a strategy to improve access to data and information sharing across all relevant agencies in Montenegro. This corresponds to Action Plan for Chapter 23: 1.2.1, 1.4, 1.4.3.4.

Prevention of corruption

Fight against corruption is one of the key priorities of Montenegro. As a precondition for effective combating corruption, Montenegro places significant efforts in order to establish and improve preventive anti-corruption tools. In this context, authorities of Montenegro were strongly supported through IPA 2010 Twinning project *Support the implementation of Anti-Corruption Strategy and Action Plan*, through establishment of the normative and institutional anti-corruption framework. Further support is needed in order to provide continuation and sustainability of the efforts that have been made, having in mind development of knowledge and skills, working processes and methodology including measures for improvement of interagency cooperation through team building trainings and acquaintance with best practices of member states in this area. Thus, IPA 2010 project produced analysis of legislation in the area of financing of political parties, including recommendations for improving current legal solutions which were taken into consideration in preparing *Law on Amendments of the Law on Financing of Political Parties* which was adopted in February 2014. Having in mind the importance of establishment of the effective system of monitoring of financing of political parties and election campaigns for overall democratisation process, additional efforts are necessary for improvement of the system in accordance with this analysis, GRECO recommendations, EU Progress Reports and Action Plan for Chapter 23 (including audit of political parties reports and adjusting the existing sanctions relating to infringements of political financing rules). This means further improvements of the existing legal solutions, specialised trainings in area of monitoring and control of party funding.

In addition to this, the above mentioned project also strongly supported the area of conflict of interest and asset declaration, which included an in-depth analysis of the existing normative and institutional

framework, resulting in amendments to the Law related to improvements in submitting and verification of asset declarations of public officials. The amendments were fully aligned with recommendations from the EC peer review mission held in February 2014. In order to provide full implementation of the Law, a concept of automated database of the CPCoI has been developed via IPA 2010 project, containing the estimation of costs. This concept defines networking of databases of the CPCoI with databases of state bodies possessing necessary data on public officials. As a further step, EU RoL project should follow this concept and provide expertise and funds for establishing automated data exchange and development of the above mentioned IT solution in practice. This corresponds with measures 2.1.2.5 of the Action Plan for Chapter 23. By the beginning of implementation period of the IPA II assistance, the above mentioned system would have been established, and therefore the key and final assistance is necessary for proper and effective use of this anti-corruption tool which would include specialised trainings of the staff, including getting acquainted with best practices of member states in this area.

The IPA 2010 project also provided support in preparing draft *Law on Prevention of Corruption* that, inter alia, for the first time comprehensively regulates the issues of integrity and protection of whistle-blowers. Although the web application for implementation of integrity plans has been developed and operational, it should be further enhanced, in terms of processing statistic data and development of qualitative analysis of reports. Further trainings should be given to the staff of the Administration for Anti-Corruption Initiative (AACI) and all state authorities, so as to ensure development of high quality integrity plans. Also, AACI needs to develop skills for analysing these plans and to use this tool for defining further policies in this area. As for the protection of whistle blowers, the Law introduces external protection of whistle-blowers and temporary measures for suspension of legal acts and omission of acts enforced against whistle-blower, as well as improved procedures for internal reporting and protection of whistle-blowers. Since this Law for the first time comprehensively regulates this issue, it is necessary to provide trainings to the relevant staff on the procedures and methods of verification of complaints, protection of identity of whistle-blowers in the processing complaints with other authorities and enforcement of temporary measures in practice. It is also important to develop a web application for submitting complaints and uploading of accompanying documentation.

When it comes to lobbying, the *draft Law on Lobbying* regulates transparency of the process of lobbying, through obligation of issuing approvals for lobbying activities, certifying lobbyists and keeping the register of lobbyists, proceeding upon reports against lobbyists who violate the law. In order to efficiently implement these provisions, IPA II should provide financial support for development of online register of lobbyist, lobbying persons, certifying lobbyists and lobbying bidders. This also includes trainings of relevant staff on implementation of the provisions of this Law.

Aiming to increase efficiency in fight against corruption and producing measurable results, IPA II should support establishing unique software system that will merge existing and future software solutions of preventive anti-corruption bodies and thus will provide for effective implementation of the anti-corruption legislation.

A precondition for successful fight against corruption is continuous awareness raising campaigns that will encourage citizens to report corruption and improve their knowledge about harmful effects of corruption to society. In addition to this, this Action should provide for further promotion of the activities and competences of anticorruption bodies, aiming at increased level of public trust into Montenegrin state administration. Through IPA 2010 project a campaign has been launched and will be finished by the end of 2015. In order to provide successful continuation of preventive activities, a new public awareness campaign should be initiated in 2016. This would cover development and broadcasting of TV and audio anti-corruption videos, anti-corruption leaflets, billboards, city light posters and distribution and placing of this material throughout Montenegro. IPA II should financially support these activities.

Repression of the corruption

Following the concept of the further legislation alignment with EU legislation and developing strong institutions, there is a need to further enhance the legal security and the protection of human rights and freedoms of by further supporting an independent and efficient judiciary and in particular strengthening capacities for combating organised crime and corruption. The Action intends to support the prosecution system in addressing several of the shortcomings, by improving the capability of the state prosecution offices, courts, law enforcement authorities and other stakeholders involved in implementing the new criminal legislation in practice. This encompasses: further developing of skills and expertise of the state prosecution offices (trainings and study visits on the topics of financial and bank crime, investigation and prosecuting of cases of corruption, special investigative measures and techniques, digital forensics and computer crime, data protection and security, administration, etc.); improving IT structure (hardware, software) and permanent specialisation of IT staff through specialised courses and trainings, especially in the part of security and cyber-crime; introducing Case Management System software application to be used in the daily activity; upgrading the communication infrastructure by replacing active and passive equipment, providing backup server equipment, mail server, administration of system, etc.; improving the transparency of the work of the state prosecution offices (upgrade the portal of state prosecution office) with aim of better accessibility and visibility of the work; and to provide the publications of certain materials from the prosecution IT system to the Portal. The IPA 2012 *EU RoL* project will support both the judicial institutions, including the prosecutors, and the police to ensure that training needs are addressed in the broader context of fighting corruption. The Action will also assist in undertaking strategic IT and data management reviews to assist in enhancing the sharing of data and intelligence.

Aiming to further strengthen capacities of judicial authorities in fight against corruption and organised crime, the Action Plan for Chapter 23 defines measure of merging two specialised units of the High Courts into one, in order to centralise competence for criminal offences of organised crime, corruption, terrorism and war crimes. The measure is defined as 1.4.2.2.3 in 4th quarter of 2014. Also, changes will be made in the organisation of Special Unit for Suppression of Criminal Offences of Organised Crime, Corruption, Terrorism and War Crimes in the Supreme State Prosecutor's Office. The measure is defined as 1.4.2.2.4 in 1st quarter of 2015. Support should be given following these activities, in the context of on-the-job training and providing assistance.

Implementation of the new *Criminal Procedure Code* (which the Department for Combating Organised Crime, Corruption, Terrorism and War Crimes in the Supreme State Prosecutor's Office began to apply in September 2011) enabled implementation of financial investigations for extended confiscation of proceeds of crime. In 2011, investigations are completed by upon the proposal of the prosecutor and the court ruled on the temporary seizure of assets worth over EUR 43 million, while by the end of the reporting period for 2011 one financial investigation was still in progress. Analysis of the results of the work showed that the Department for Combating Organised Crime, Corruption, Terrorism and War Crimes in the Supreme State Prosecutor's Office needs to increase the number of professionals who have special knowledge in the field of financial and banking operations. In addition, for better and more efficient running of financial investigations, it is noted that the records of public authorities whose data is used by prosecutors should be more adequate, and also that the administrative capacities of these authorities should be strengthened. In 2012, the Department for Combating Organised Crime, Corruption, Terrorism and War Crimes in the Supreme State Prosecutor's Office was running financial investigations in two cases.

All financial investigation was conducted by the Department for Combating Organised Crime, Corruption, Terrorism and War Crimes, using prosecutorial capacity to analyse and process the collected facts. Competent state authorities collaborated with the Department by submitting the required documentation upon the request of prosecution office. It turned out that for the conduct of financial investigations hiring of not only financial professionals is needed, but also individuals who possess expertise in other areas, mainly geodesy and construction engineering.

Performing of complex financial investigations demands specific demanding skills and competences of the police, other law enforcement authorities, and Prosecution Office and Courts.

Measures in this part correspond to Action plan 23, measures 1.4., and Action plan 24, measures 6.2.

ANNEX 2

List of relevant past and ongoing projects

Judiciary authorities were involved in the implementation of the following IPA projects:

- IPA 2007 project *Justice Reform*, implemented as Twinning with Republic of Austria. The project provided support to the process of strengthening of independence and efficiency of Judiciary system and promotion and protection of Human Rights and Rights of Children in conflict with the law;
- IPA 2009 project *Support to the implementation of the new Criminal Procedure Code* – Twinning project was implemented in cooperation with the Republic of France, with goal to support the implementation of the new institutes introduced with new Criminal Procedure Code, due to provide efficiency and better implementation of Justice, in accordance with EU standards and best practice. The project complemented improving administrative capacities in the state prosecution offices, courts, Police Administration, bar association. IPA supported also the supply of equipment for the Courts and Prosecution office (EUR 200 000);
- Montenegro participates in IPA regional programme *Regional co-operation in fight against cyber-crime in the South Eastern Europe* (implemented by EU and CoE);
- Montenegro participates in IPA Multi-beneficiary programme *Fight against organised crime: International Cooperation*;
- IPA 2012 grant project *EU support to the Rule of Law* began in January 2014.

Area of the fight against corruption was/is supported through:

IPA assistance:

- IPA 2007 project MN-07/IB/JLS-02 *Fight against corruption and organised crime*, with the overall objective to fight against organised crime and corruption by improving performance and cooperation of different law enforcement agencies. The purpose of the project was to provide advisory and material assistance with the aim of strengthening strategic, institutional and operative capacities of the Criminal Police Department, Administration for the Prevention of Money Laundering and Terrorism Financing, and Administration for Anti-Corruption Initiative (February 2009 – May 2010), budget: EUR 1.2 million;
- IPA 2010 project MN 10 IB JH 03 *Support the implementation of the Anticorruption Strategy and Action Plan* – This project relates to strengthening and introduction of the new anti-corruption preventive mechanisms aimed at increased level of ethics and integrity in public administration bodies (September 2012 – April 2014), budget EUR 737 000, EU contribution EUR 700 000;

Other donor's activities:

- Project *Enhancing Strategic Operational Capability of DACI through Capacity Building* – Improvement of DACI's strategic management and related capacities in a comprehensive, sustained, and sustainable manner (July 2010 – July 2012), budget EUR 304 000, implemented by UNDP, financed by the Government of the Kingdom of Norway;
- *Integrity and capacity assessment of public administration in Montenegro*, December 2010, UNDP
- Project *Support for the implementation of international anticorruption standards and instruments* – Survey *Analysis of corruption and barriers to business in the interaction of private and public sector in Montenegro*, high-level trainings on the implementation of the Law on Liability of Legal Entities for Criminal Offences, and legal provisions concerning detection, seizure and confiscation of proceeds from crime; drafting DACI's first development strategy 2009-2010, implemented by International Management Group (IMG), financed by the Government of the Kingdom of Norway;
- Project *Strengthening Strategic Operational Capability of DACI* – Design, procurement and installation and launch of specialised software for processing reports on the implementation of national anticorruption strategy and action plan, as well as compiling and analysing data on corruption complaints; training of trainers (DACI) for software usage, training of other stakeholders, i.e. reporting bodies 2010-2011, implemented by the International Management Group (IMG), financed by the Government of the Kingdom of Norway;

- In 2008, the Commission for the Prevention of Conflict of Interests, in cooperation with the NGO CEMI, conducted a cycle of 11 training seminars for public officials, media and NGOs. The Commission has established its website. A survey on the topic *Public in relation to the Law on the Conflict of Interest* was conducted in November 2008, including a sample of 1000 respondents in the central, southern and northern region of Montenegro;
- *Integrity and capacity assessment of judiciary in Montenegro*, 2008, UNDP;
- *Integrity and capacity assessment of local governments in Montenegro*, 2010, UNDP;
- Anti-Corruption Practitioners' Network – UNDP CO and Bratislava Regional Centre, 2008-2010. DACI Capacity Assessment Study.