

**30th Council of Europe Conference of Ministers of justice**  
**“transparent and efficient justice”**  
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**SPEECH**

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**MONTENEGRO**

Respectable participants of the 30th Council of Europe Conference of the Ministers of Justice  
Ladies and Gentlemen,

I will start this speech by expressing multiple gratitude and pleasure. Let me first thank both the oldest pan European organization, the Council of Europe, on the organization of this Conference on behalf of its newest member Montenegro, and Turkey, chairing the Committee of Ministers on the traditionally warm welcome and on the high-level protocol of this meeting.

The pleasure is greater than what meets the eye since the conference is taking place in Istanbul. Thus, we meet each other in the city where the East and the West meet, we meet each other at the crossroads of Europe and Asia, we communicate in the city of the world-wide dialogue, we meet each other on the Mediterranean coast - the cradle of our civilization, the civilization based on the peace resting on justice, democracy, rule of law and human rights.

Establishment of such an order that will secure the observance of the aforementioned values is the common objective of the contemporary states and societies. These are the cornerstones of the Council of Europe, under the aegis of which the Magna Carta Libertatum of today's Europe - the European Convention for the Protection of Human Rights and Fundamental Freedoms along with its protective mechanism of the European Court of Human Rights- has been developed. By signing the Declaration on the future of the European Court of Human Rights, at the crucial conference taking place in Interlaken in February of the current year, we expressed our full support for the further strengthening of the efficiency and institutional independence of the Court, as a major supervisory mechanism of the Convention. We placed great faith in the affirmation of the principle of subsidiarity when protecting rights provided for in the Convention. But, previous national protection of human rights and freedoms is fundamental in line with the principle of subsidiarity. Thus we will not be mistaken when saying that the application of these principles mostly depends on the capacity and perspective of the national judicial systems, which are the key factors in protecting human rights and freedoms and the guarantees for the rule of law.

As a society fostering the European values and a state aspiring towards full EU membership, Montenegro is committed to improving its judicial system in its entirety, where strengthening of the efficiency represents one of the key issues of our judicial reform. The European Commission in its opinion on Montenegro's application for the EU membership assesses how successful we have been so far. However, we take this positive opinion as the valuable guideline on how to further improve our judicial system rather than as something that we should boast of. When granted candidate country status, which is to be expected in the next month, Montenegro will enter a new stage of its integration process, the stage of more challenging tasks, more complex affairs, more intense activities and of even greater responsibility.

However, having satisfied all preconditions for further improvement of our judicial system, we are well prepared for taking on new obligations. Bearing in mind that all the objectives

of the judiciary reform are naturally interconnected and interdependent, I will take this opportunity to comment on a couple of the major ones arising from the need for strengthening the efficiency of the judiciary and marking the implementation of the 2007-2012 Strategy for the reform of the judiciary and the associated action plan so far.

First issue worth mentioning is the establishment of the Judicial and Prosecutorial Councils which guarantee the independence of judges and autonomy of prosecutors aiming at eliminating possible political influence on the election and dismissal of the judicial function holders which is one of the key prerequisites for their independence. This principle of independence also applies to the decision making of the Judicial Council aiming at transparency when performing activities within the scope of its competences.

Other issues worth mentioning are those that material standing of the holders of judicial functions has been significantly improved; the criteria for their appointment and promotion have been laid down, professionalism and accountability are being permanently promoted and judicial bodies are more independent in assessing the amount of budgetary funds to be allocated for the judiciary.

However, the subject of this conference is the efficiency of the judiciary, and that is the one of the top strategic goals of our reform.

We successfully introduced a number of measures resulting in reducing the backlog of cases for 75%. This result has been achieved through implementing the following measures: delegation of judges from the courts with less workload to the courts with backlogs, the reverse allocation of cases, the implementation of the national Act on Trial within the Reasonable Time which provided for both the control mechanism to accelerate judicial proceedings as well as the right to compensation in case of violation, engagement of retired judges as advisers, supervision performed by the higher instance judges over lower ones, their insisting on suppression of the violation of this very right etc.

When it comes to the legislative framework, we have created and are yet in the process of creating prerequisites for further strengthening of the efficiency of the judiciary. The New Criminal Procedure Code has entered into force as regards organised crime and corruption, while its full implementation will start at the end of August 2011. Judicial function holders have already felt the benefits of this introduced novelty. New solutions introduced as an alternative to the trial, especially regarding less serious criminal offences, should contribute to the reduction of workload in courts and their efficiency.

Another mechanism that highly contributes to the efficiency of the judiciary is fruitful implementation of the institute of mediation, for which Montenegro has already been recognized in the Western Balkans. In addition, we have undertaken certain activities to strengthen the system of enforcement in civil matters and we drafted the Enforcement Procedure Act provided for the public enforcement officers who will conduct the enforcement procedure save in sensitive cases, when this function shall be performed by courts. This reform activity should also contribute to the efficiency and to the protection of right to a trial within reasonable time.

By the end of the current year, first notaries will be appointed and this will also significantly reduce the court workload and will contribute to the safety of legal affairs and traffic. The Misdemeanours Act will be adopted shortly, and the preparation for the reorganization of the judicial network is under way which will strongly influence the achievement of the set goal-the strengthening of the judicial bodies.

Nowadays, there is an increasing need for more efficient international legal assistance. It should be mentioned here that the sound and efficient international legal assistance is crucial for effective suppression of serious crimes, which are taking on an international character, and especially for suppression of organised crime, that remains a major threat to human rights and freedoms. Efficient and full cooperation is a condition for successful conducting of procedures before the judicial bodies in all sorts of disputes. Efficient

international cooperation implies direct and ongoing communication among judicial authorities in various states and full observance of the established standards of such cooperation. It could be stated here that successful international legal cooperation proves equally important when it comes to both civil and commercial matters, and is especially significant for building up of the reputation of the judiciary.

In addition, the efficiency, reliability and the overall perception of the judicial system of a state depend on the capacity of human resources working in the judiciary, since the judicial mission and the challenges it encounters require capable judicial function holders, whose education and training should be one of the top priorities of a state willing to become full EU member.

Within the subject of efficient justice, we examine the transparency of the work of judicial authorities. Undoubtedly, the publicity of work stands as a prerequisite for both the citizens' control over the judiciary and raising of the awareness regarding the quality of that work, which are indicators of credibility of the judiciary. The society in general is entitled to be informed on issues that are in the process before the courts. This very principle is fully observed in Montenegro, among other things, also through the development of the judiciary information system. However, it somehow happens that sometimes the media reports from the courtroom are judgmental, thereby violating either the presumption of innocence or the right to privacy of a victim. We will all agree that this could adversely affect the wellbeing of a victim of such media reporting, especially in smaller communities, and this violates the right to a fair trial. It is not an easy task to address all these issues, but I am inclined to believe that, by putting all the efforts together, we may create a frame for clearer picture on the violations caused by exaggerating when reporting from the courtroom and consequently for taking on the liability for such reporting.

Ladies and gentlemen,

A well-known legal maxim states that justice delayed is justice denied. Provided we know that there is no justice without freedom, no freedom without law, no law without court, then the efficient judicial system would be *conditio sine qua non* of the legal ideal that contemporary societies aspire to achieve.

I am inclined to believe that the 30<sup>th</sup> Council of Europe Ministerial Conference will result in far reaching recommendations on how to further improve legal systems of the Council of Europe member states, and Montenegro among others, regarding the strengthening efficiency and transparency of the judiciary.

At the same time, I truly believe that my today's speech will contribute to the achievement of the goal of our meeting.

Thank you.