

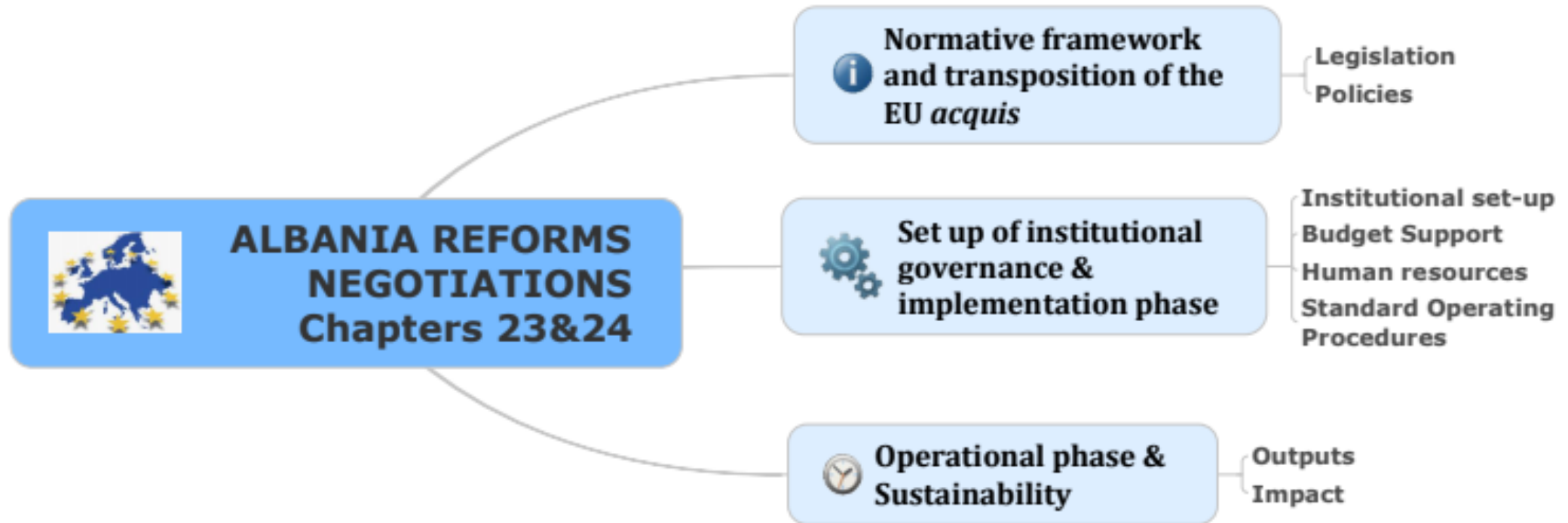
ROUND TABLE

“Accession negotiations and country reforms: Chapters 23 & 24”

Rogner Hotel / 30 May 2019, 16:30 - 18:00

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Albania Reforms Negotiations: Chapters 23 & 24





ALBANIAN HELSINKI COMMITTEE

PART I - JUDICIARY ACHIEVEMENTS AS OF APRIL 2019

- Some factors brought delays for the implementation of the justice reform. Despite, the reform never stopped: it has already brought effects
- Re-evaluation process (Vetting) of nearly 140 judges and prosecutors carried out
- 3 new governance institutions of the justice system established:
 - High Judicial Council (HJC)
 - High Prosecutorial Council (HPC)
 - Justice Appointment Council (JAC)
- JAC is carrying out the verification of the candidates for the Constitutional Court and for the High Inspector of Justice (HIJ)
- HJC and HPC perform through constructive debates and in respect of ethic' standards
- HJC and HPC faced voluminous activity
- Challenge for HJC and HPC:
 - setting priorities
 - establishment of the Special Prosecution/Court against Corruption and Organized Crime



JUDICIARY

PROBLEMS AND CHALLENGES AS OF APRIL 2019

- The new justice system institutions need to address the vacancies created in the:
 - Constitutional Court
 - High Court and other courts
 - Prosecution office
- Need for re-organization of the courts of all levels, several delegations (around 300) from the new HCJ
- Several disciplinary measures were introduced in the former HCJ during the transitory period, but very few ones led to light disciplinary measures
- General Prosecutor (GP) lacked transparency and reasoning/motivation of its decisions for transferring the prosecutors
- Obstacles in verification of disciplinary measures of judges/prosecutors because of lack of HIJ
- Vetting bodies practice should be consolidated, to avoid relevant claims of double standards. It's pace should be more dynamic (around 1-2 persons vetted per week)
- JAC meetings are closed and its meetings' minutes are web-published in a limited content
 - lack of transparency delegitimizes institutions
- HCJ and HPC are suffering infrastructure, budget, human resource's shortcomings/problems



ALBANIAN HELSINKI COMMITTEE

PART II - FUNDAMENTAL HUMAN RIGHTS ACHIEVEMENTS AS OF APRIL 2019

1. Trial rights (including access to justice)

- a new law on legal aid guaranteed

2. Prison system

- a penitentiary system new package of laws is process: substantial amendments to improve standards
- adoption of the law on amnesty
- opening and functioning of the new prison in Shkodra

3. Equality and anti-discrimination

- a new law on social housing was approved in 2018 providing more guaranties and positive measures

4. Freedom of expression

- an initiative to draft a law on defamation and prevent fake news: so far no consolidated draft introduced / initiative presented contested by the journalists and their NGOs



ALBANIAN HELSINKI COMMITTEE

FUNDAMENTAL HUMAN RIGHTS PROBLEMS AND CHALLENGES AS OF APRIL 2019

1. Trial rights (including access to justice)

- obstacles with the access to justice especially vulnerable groups
- delays in drafting of some remaining sub-legal acts and establishment of the responsible units in charge

2. Prison system

- problems with material conditions: overcrowding, poor hygiene, lack of basic supplies, water, natural and artificial light
- corruption
- HR not sustainable
- complaints for ill treatment have not led to effective criminal investigation

3. Equality and anti-discrimination

- Roma and Egyptian face several problems: lack of proper housing, improper living conditions, lack of public services (water, electricity, social care), lack of education and lack of employment
- stigmatizations and intimidation of the LGBTIQ
- domestic violence, mainly against women (each week there is an average of one case)

4. Freedom of expression

- no effective criminal investigation for cases of violence against journalists and their families
- problems with censure/auto-censure
- public insults of journalist from the politicians and problems with the respect of the journalists' labor rights

Chapter 24

Main issues and challenges

Overall Priorities

Develop a strategic approach towards financial investigations adopting the FATF concept on financial investigations

- automatically implement financial investigations when dealing with organised crime, terrorism, money laundering and serious corruption cases
- start financial investigations from the very start of the criminal investigation
- apply a multidisciplinary and proactive approach to financial investigations

Make the National Centre for Countering Violent Extremism fully operational with adequate funding and staff

Address the phenomenon of unfounded asylum applications and travel of unaccompanied minors in the EU countries

Priorities in the fight against organized crime

Establish a solid track record of proactive investigations, prosecutions and final convictions
Establish/make operational the Special Anti-Corruption and Organized Crime Structure and National Bureau of Investigation

Intensify the fight against money laundering:

more effective use of criminal intelligence, identification, tracing, freezing and confiscation of crime proceeds

make reports of suspicious transactions admissible as evidence in court

introduce the concepts of extended confiscation and financial ceiling in cash transactions

strengthen law enforcement authorities capacity to deal with tax fraud / evasion

Establish or designate an asset recovery agency

Alignment of legislation with the Framework Decision 2008/841/JHA on the fight against organised crime

Legislation is harmonised with the UN Convention against Transnational Organized Crime

Legislation is partly harmonised with the Framework Decision 2008/841/JHA on the fight against organised crime

partly transposed into the Penal Code

adoption of the law on penal responsibility of the legal persons (*law no. 9754, dated 14.06.2007*)

anti mafia law (*law no. 10192, dated 3.12.2009*)

Money laundering and financing of terrorism

Positive highlights:

- Albania is party to all CoE Conventions on fight against terrorism
- Law on the Prevention of Money Laundering and Financing of Terrorism improved in 2017
- National CVE Strategy adopted in 2015
- Increased capabilities of the Financial Intelligence Unit

However:

- there have been no prosecutions and convictions of financing of terrorism offences
- MONEYVAL Report (2018) highlights that there is no systematic approach to identify and investigate financing aspects of terrorism-related offences

Therefore:

- there is a threat that financial terrorism related offences may not be properly investigated

International Cooperation

FIU has access to the Egmont Secure Web

allows for better and secure communication among FIUs

Albania is part of the agreement on strategic cooperation and operational with EUROPOL

allows exchange of information through the Secure Information Exchange Network Application - SIENA

FIU has signed 43 MoU with partner organizations

Confiscation, freezing of property and financial penalties

Progress noted on confiscating criminal assets:

- over 70 million Euros confiscated in the period 2016-2019
- 8 million Euros confiscated in the previous 13 years

Further alignment of the legislation with the *acquis* needed

The establishment of an asset recovery office/agency remains an outstanding issue

Trafficking of human beings and firearms

Albania remains a source country for trafficking in human beings

National Referral Mechanism for Victims and Potential Victims of Trafficking - the main coordinating body

Increased volume of organized crime activities accompanied with trafficking in human beings

Limited results in prosecuting cases of trafficking in human beings

The Negotiation Process for Accession to the EU

TANJA MISCEVIC,

HEAD OF NEGOTIATING TEAM FOR THE ACCESSION OF THE REPUBLIC OF SERBIA TO THE EUROPEAN
UNION

PRESENTATION CONTENTS

THE TWO MAIN ELEMENTS OF THE ACCESSION PROCESS

THE MAIN CHARACTERISTICS OF THE NEGOTIATION
PROCESS

THE KEY INSTITUTIONS AND THEIR ROLE

HOW TO WORK WITH THE EUROPEAN UNION

TWO CLOSELY CONNECTED PROCESSES

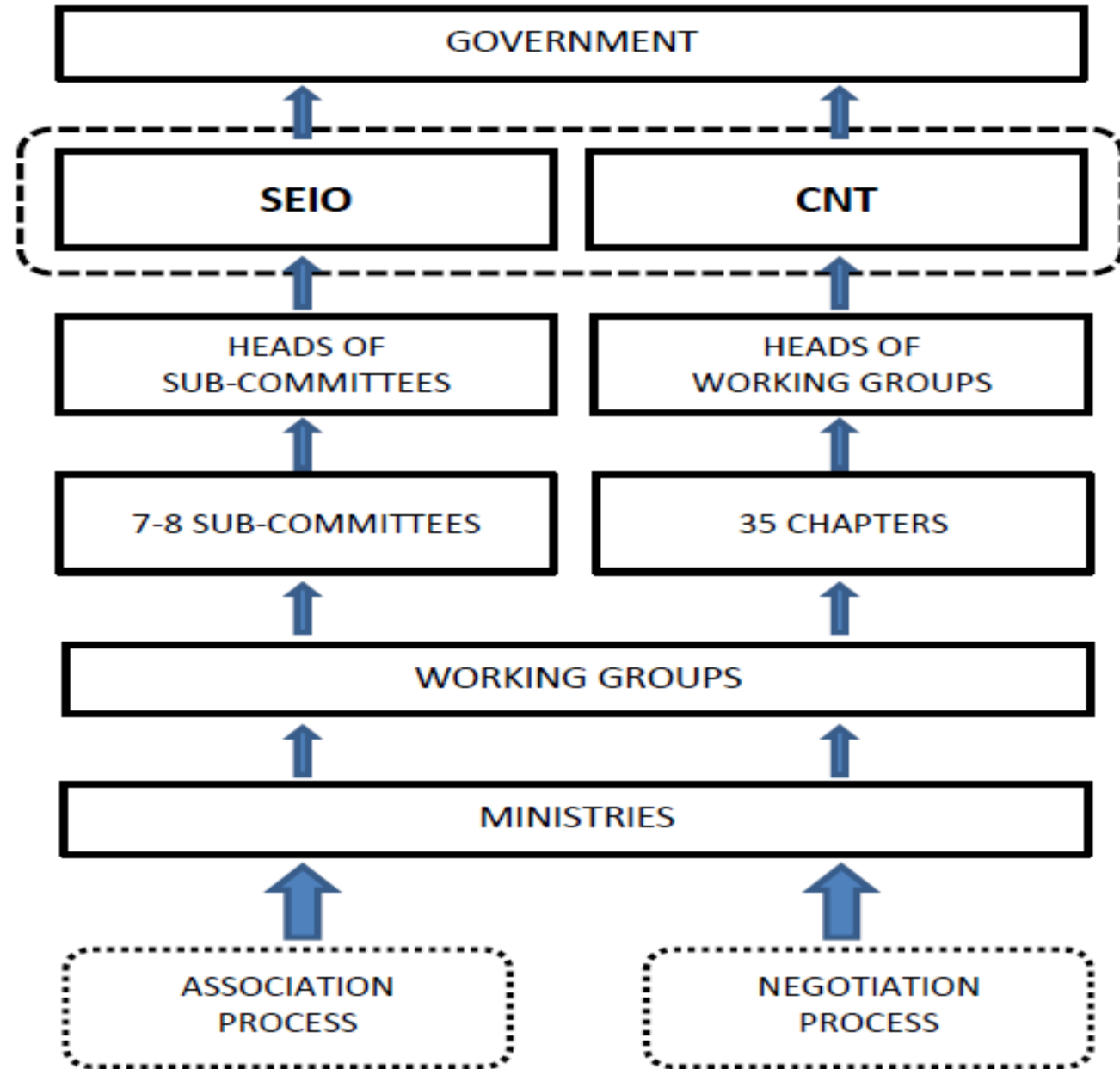
ASSOCIATION

- BASED ON THE STABILISATION AND ASSOCIATION AGREEMENT

ACCESSION NEGOTIATIONS

- BASED ON THE INTERGOVERNMENTAL CONFERENCE

OBLIGATIONS DEFINED DURING THE NEGOTIATIONS WILL BE MONITORED THROUGHOUT THE ASSOCIATION PROCESS!!!!



THE MAIN CHARACTERISTICS OF THE NEGOTIATION PROCESS – The Negotiating Framework

ADJUSTING THE EU'S "RULES OF THE GAME"

- ARE WE ACTUALLY NEGOTIATING?

THE MAJORITY OF THE NEGOTIATIONS/WORK TO BE DONE AT "HOME"

NEGOTIATIONS ARE HELD WITH MEMBER STATES, NOT ONLY WITH THE EUROPEAN COMMISSION

NEGOTIATIONS WITH CANDIDATE COUNTRIES ARE ALSO NEGOTIATIONS BETWEEN MEMBER STATES

- A lot of compromises and bargaining

LENGTHY PROCEDURES IN MEMBER STATES

- At least three months for non political Chapters!

THE TWO DIMENSIONS OF THE NEGOTIATIONS:

- TECHNICAL AND POLITICAL – with the focus on political!

THE LANGUAGE OF THE NEGOTIATIONS - ENGLISH

THE MAIN CHARACTERISTICS OF THE NEGOTIATION PROCESS

NOTHING IS AGREED UNTIL EVERYTHING IS AGREED

A STRONG POLITICAL CONSENSUS IS ESSENTIAL

THE STRUCTURE OF THE NEGOTIATING PROCESS IS CLEARER:

- ACCESSION CRITERIA (1993)
- INTRODUCTION OF BENCHMARKS (2006, 2012)
- SCREENING – AN INCREASINGLY IMPORTANT PART OF THE PROCESS (2006)
 - Explanatory and bilateral
- AN EARLY FOCUS ON “DIFFICULT” CHAPTERS (2011)
 - Rule of law (Chapters 23 and 24)
- Political/bilateral issues – Chapter 35
- Fundamentals First (2016)
 - RoL, Financial Governance, Public Administration Reform (ERP)

THE MAIN PHASES OF THE NEGOTIATION PROCESS

SCREENING (1 – 1,5 YEARS)

- Serbia's still not finish, started September 2013

NEGOTIATING INDIVIDUAL CHAPTERS (unknown duration – AT LEAST 4 YEARS)

- OPENING EACH OF THE 35 CHAPTERS
- TEMPORARILY CLOSING EACH CHAPTER

THE CLOSING OF CHAPTERS

- The role of chapters 23 and 24, in our case 35 as well (imbalance clause)

SIGNING OF THE ACCESSION TREATY (HALF A YEAR AFTER THE CLOSING OF NEGOTIATION PROCESS)

THE RATIFICATION PROCESS (1,5 – 2 YEARS AFTER THE SIGNING OF THE TREATY)

PRINCIPLES OF THE CONCEPTUALISATION OF NEGOTIATING STRUCTURES

THE USE OF EXISTING INSTITUTIONS AND STRUCTURES

- TAKING COMPLETE ADVANTAGE OF SERBIA'S DIPLOMATIC AND CONSULAR NETWORK!!!

VERIFICATION OF POSITION/A DILEMMA ON THE POLITICAL LEVEL

ARTICULATION OF THE ALL ENCOMPASSING PHILISOPHY OF THE PROCESS

A CLEAR DIVISION OF COMPETENCE AND RESPONSIBILITIES

INSTITUIONAL MEMORY

EXAMINING NEGIOTIATING POSITIONS WITH VARIOUS ACTORS

- Parliament
- Civil Society – National Convention for EU

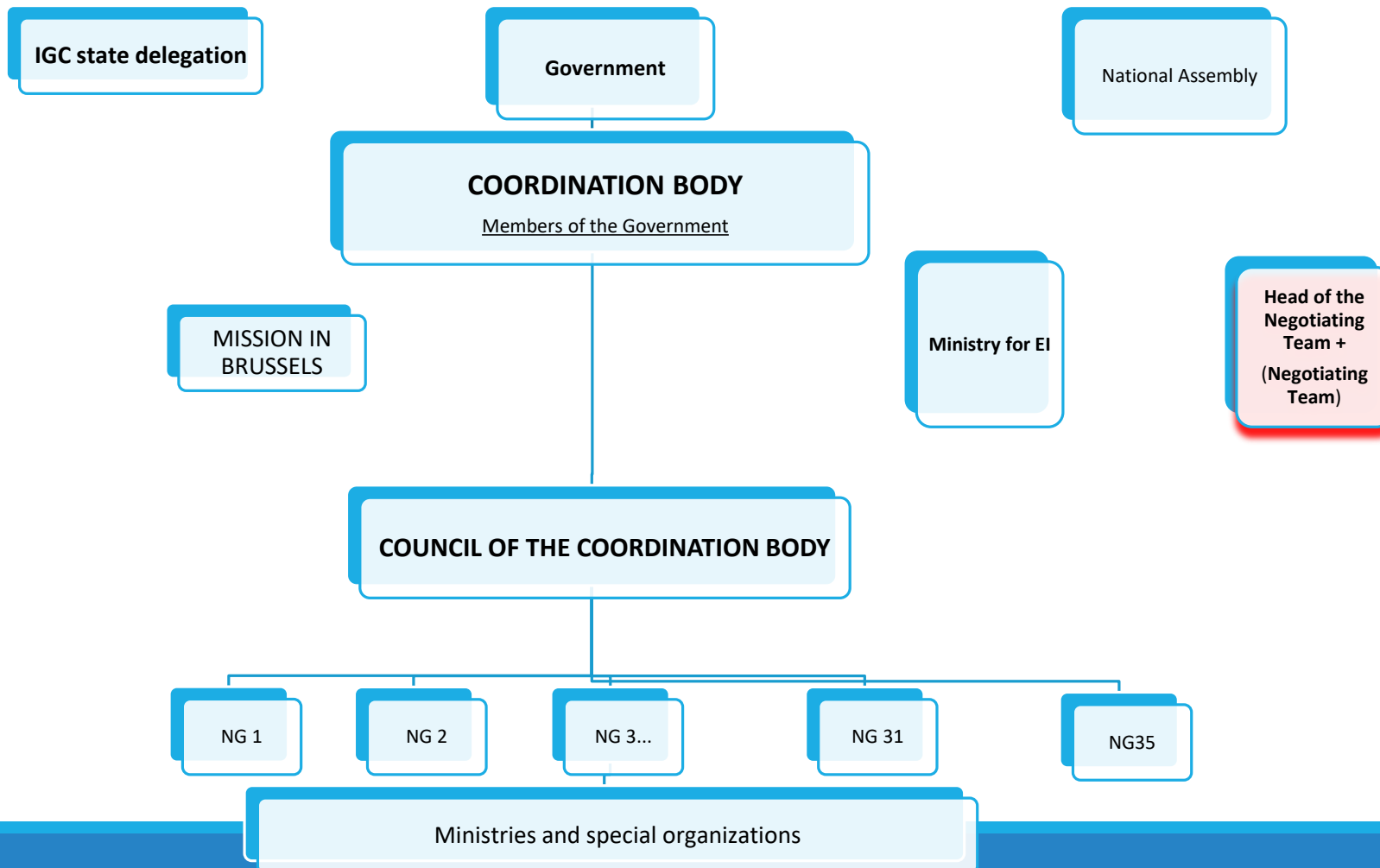
INCLUDING ALL THE COUNTRY'S HUMAN RESOURCES

VOICING OPINIONS "UNANIMOUSLY"

FLEXIBILITY AND THE ABILITY TO QUICKLY REACT



Coordination structure for the negotiation process



CONCLUSION

EU ACCESSION EFFECTS ALL OF SOCIETY

- The importance of the process, not the date of entry to the EU

THE IMPORTANCE OF IMPLEMENTATION

- That is the measure of success

THE PUBLIC ADMINISTRATION HAS THE MOST INFLUENCE AND BEARS THE BIGGEST RESPONSIBILITY

- But, to have one voice, harmonisation is essential
- The role of the national parliament and the wider civil society
 - Parliamentary and Public Diplomacy
- The role of political parties
 - Party diplomacy

Additional issues to take care of...

New policies, more acquis

More politics than standards

- Regional issues, third party involvement (Russia, China)

Enlargement fatigue and Brexit

Experiences from former enlargements

- New approach to negotiations – Chapter 23 and 24
- Up-dated new approach – Chapter 35

Different than in previous enlargements

- Not big interest for new MS
- EU Enlargement Policy has not been considered important for the EU Reform

Very long process

- Public opinion more prone to the reforms