

**EU  
FOR  
JUSTICE**

Support for  
Chapter

**23**

# BOOKLET ON PROJECT ACHIEVEMENTS

Judiciary and Fundamental Rights  
in the context of Chapter 23  
accession negotiations



REPUBLIC OF SERBIA  
MINISTRY OF  
JUSTICE

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ЗА ТЕБЕ**

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# INTRODUCTION

With Rule of Law having been recognised as a key European Union (EU) accession priority, the Negotiating Chapter 23: Judiciary and Fundamental Rights of the Union *acquis* has become central to Serbia's accession process, and will remain a key focus throughout. In March 2016, the Government adopted the Action Plan for the implementation of Chapter 23 (AP23) and in July 2016 accession negotiations on this chapter commenced. The Ministry of Justice (MoJ) is the responsible institution overseeing the negotiation process for Chapter 23, and the key government body guiding, steering and monitoring the judicial reform process in Serbia.

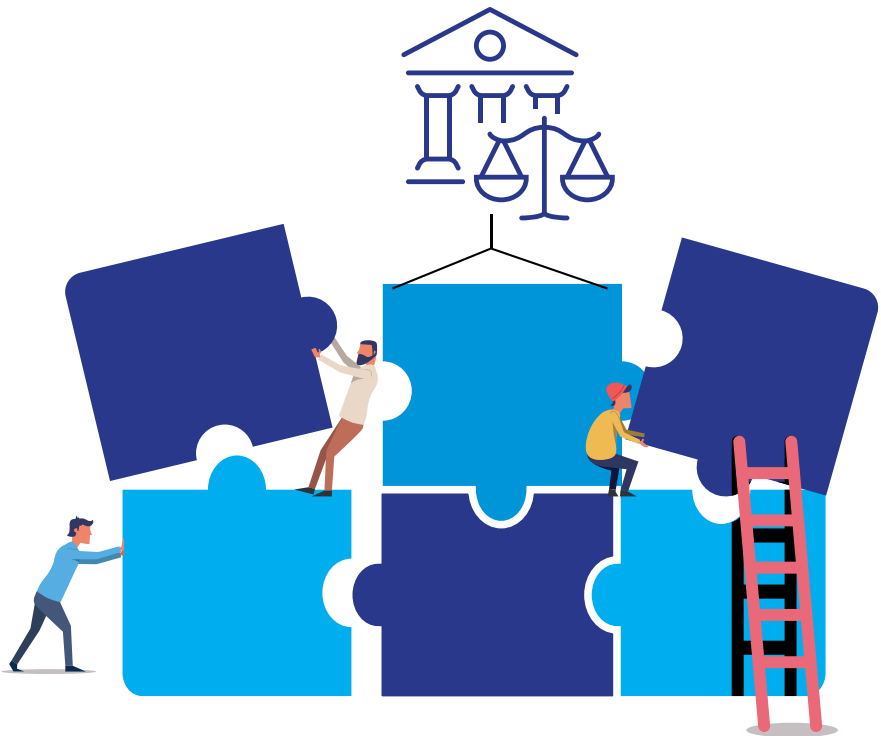
As the largest donor to Serbia, the EU continues to support the advancement of the state of Rule of Law in Serbia. It remains responsive to the needs and challenges faced by Serbian institutions in bringing Serbian standards in the areas of judiciary, anti-corruption and the protection of fundamental rights closer to those of the EU. In designing reforms of the areas covered by Chapter 23, the Ministry of Justice has been primarily guided by the Union *acquis*. In areas where there is no Union *acquis*, or the latter does not cover the whole area, the established standards and best comparative practices of EU Member States have been used as a guide for the design of reforms, as Serbia progresses in the context of accession negotiations.

As part of its IPA 2015 Action *Support to Justice Sector*, in 2018 the EU extended a direct line of technical assistance to the Ministry of Justice with the aim of reforming the justice sector in Serbia in line with EU accession requirements.

*EU for Justice: Support for Chapter 23* is an EU-funded Project with a value of approximately 2 million EUR. This project commenced in May 2018 with the specific objective to strengthen the capacities of the Ministry of Justice to fulfil its role in the judicial reform process and coordination of implementation of the measures of the Action Plan for Chapter 23: Judiciary and Fundamental Rights in the context of Chapter 23 accession negotiations. *EU for Justice: Support for Chapter 23* is a project implemented by a consortium led by GDSI Limited.

The scope of the Project has ranged from normative drafting (of priority laws and bylaws) to the conducting of legal, institutional, procedural and cost-benefit analyses, as well as assistance with day-to-day tasks within the Ministry of Justice. The Project has also provided capacity development for Ministry staff and AP23 focal points of line institutions, in areas such as human rights, alignment of national legislation with the Union acquis and monitoring and reporting on action plans. Awareness activities such as round-tables and high-level conferences have also been supported, together with e-justice reforms. The process of revising the AP23 has also been a key area of Project support.

This booklet contains some of the key achievements reached within the first 2 years of Project implementation.



# PROJECT COMPONENTS

- Component 1: **NORMATIVE FRAMEWORK AND STANDARDS**
- Component 2: **IMPLEMENTATION OF THE MINISTRY OF JUSTICE TASKS AND OBLIGATIONS**
- Component 3: **MINISTRY OF JUSTICE-LED COORDINATION, MONITORING AND REPORTING ON THE AP'S IMPLEMENTATION**

To maximise potential impact, the Project and the Ministry of Justice have worked closely with the European Union Delegation to the Republic of Serbia as well as with numerous institutions and AP23 stakeholders and collaborated with other ongoing donor supported initiatives in the area of judicial reforms.

THE MAIN BENEFICIARY  
Ministry of Justice

## Stakeholders:

- ▶ Ministry of European Integration
- ▶ Ministry of Finance
- ▶ Ministry of Interior
- ▶ Ministry of Public Administration and Local Self-Government
- ▶ Supreme Court of Cassation
- ▶ High Judicial Council
- ▶ State Prosecutorial Council
- ▶ ICT Sectorial Council
- ▶ Secretariat for Legislation
- ▶ Secretariat for Public Policies
- ▶ Office for Human and Minority Rights
- ▶ Judicial Academy
- ▶ Republic Public Prosecutors Office
- ▶ Chamber of Notaries Public
- ▶ Chamber of Public Enforcement Officers
- ▶ Bar Association

## Donor-funded projects

- ▶ EU funded Project *Support to the High Judicial Council*
- ▶ EU funded Project *EU for Serbia – Support to the Supreme Court of Cassation*
- ▶ EU funded Project *Support to the Victims and Witness Protection*
- ▶ USAID Project *Rule of Law Project in Serbia*



# KEY PROJECT RESULTS

## LEGISLATIVE SUPPORT



From the very beginning of its implementation, the Project has been assisting the Ministry of Justice in aligning national legislation with the Union acquis in normative areas of priority, including through capacity development, normative drafting and support to monitoring of implementation of selected legislation.



**Key Project activities and outputs in the area of legislative support include:**



**Assistance to seven working groups through organisational and expert support:**

- ▶ Legislative working group for drafting the working text of the Law on Amendments to the Law on Judges, the Law on Organisation of Courts and the Law on the High Judicial Council
- ▶ Legislative working group for drafting the working text of the Law on Amendments to the Law on Public Prosecution and the Law on the State Council of Prosecutors
- ▶ Legislative working group for drafting the working text of the Law on Amendments to the Law on the Judicial Academy
- ▶ Legislative working group for drafting amendments to the Law on Enforcement and Security
- ▶ Legislative working group for drafting amendments to the Law on mediation in resolving disputes
- ▶ Legislative working group for drafting the Law on Court Experts, Interpreters and translators
- ▶ Legislative working group for the preparation of the analysis of the Law and bylaws regulating notary public activity and scope of work of public notaries



### Assistance in relation to the following normative acts

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- ▶ Law on Enforcement and Security, including the set of seven related bylaws
- ▶ Law on Mediation
- ▶ Law on Court Experts, Interpreters and Translators
- ▶ Legal framework on public notaries
- ▶ Law on the Organisation of Courts
- ▶ Law on Judges
- ▶ Law on the High Judicial Council
- ▶ Law on the State Prosecutorial Council
- ▶ Law on the Public Prosecution Service and the Law on the Judicial Academy



### Assistance in relation to Constitutional Amendments

Within the context of Serbia's accession process to the EU, and by adopting the Action Plan for Chapter 23, the Republic of Serbia undertook an obligation to amend its Constitution in the area relating to the judiciary. The Project supported the review of the existing legislative framework in light of the envisaged Constitutional Amendments and the set of Judiciary Laws to be adopted once the new constitutional frame is in place. This assistance included a legal gap analysis of the necessary changes in the Serbian judicial legislation, followed by recommendations for legislative interventions. This analysis represented a source of information and key reference point for the work and deliberations of the Legislative Working Groups, established by the Ministry of Justice and supported by the Project.



## CAPACITY DEVELOPMENT



Increased alignment of the normative framework and standards with Chapter 23 requires strong human and institutional capacities. To improve capacities, knowledge and skillsets of AP23 stakeholders, the Project has produced numerous guidelines and conducted a series of training events and on-the-job programmes for MoJ staff and CH23 AP focal points from 35 institutions. An Organisational Review of the Ministry of Justice with a Training Needs Assessment has also been produced with the aim of improving the Ministry's internal structure and capacities in view of its augmented daily tasks and the management of its EU accession agenda.



**Key Project activities and outputs in the area of capacity development include:**



**Support to the Ministry's Sector for Normative Affairs in conducting analyses of alignment of the relevant national legislation with the Union acquis and standards**

- ▶ Capacity Building Programme on Conformity of national legislation with the Union acquis
- ▶ Guidelines and Methodological toolbox to support the MoJ to effectively cope with Ch23 policy and law-making requirements
- ▶ On-the-job support programme and expert assistance to Sector staff



**Judicial professions - conducting analysis of the relevant laws and bylaws implementation and provide recommendations for their amendments in line with increasing importance of the role of public notaries, bailiffs, mediators, interpreters, etc. based on the AP23**

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- ▶ Practicum on Mechanism of supervision of the MoJ over the work of public enforcement officers and public notaries
- ▶ Capacity Building Programme on supervision over public enforcement officers and public notaries
- ▶ Training on strengthening the capacities of the MoJ in conducting disciplinary proceedings related to holders of judicial professions
- ▶ Training on strengthening the capacities of the MoJ in proceedings of appointment of holders of judicial professions and conducting supervision of their work
- ▶ Practical Guide on the new Law on Enforcement and Security



**Support to the Ministry to improve, standardise and support the implementation of the methodology for monitoring & reporting on implementation of the AP23, including the implementation of the early warning mechanism to enable efficient implementation of the AP23**

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- ▶ Set of recommendations and guidelines for developing the most appropriate methodology for monitoring and reporting of the revised AP23, that includes the proposals for the early warning mechanism
- ▶ Methodology toolbox on reporting on implementation of AP23
- ▶ Training on improvement of reporting on implementation of the AP for Chapter 23
- ▶ Recommendations for addressing the specific training and capacity building needs of CH23 AP institutional focal points
- ▶ Workshops on reporting methodology for relevant stakeholders, including proposed early warning mechanism, reporting on budgetary aspects of implementation of the AP23, dynamics and techniques of reporting, as well as EU best practices with regard to concrete activities and experience related to reporting mechanisms in national strategic documents



## **Support to the Ministry's Sector for Normative Affairs and Sector for European Integration and International Projects related to compliance with EU human rights, standards and follow-up UN mechanism for human rights recommendations**

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- ▶ Capacity Building Programme on Human Rights Reporting and Monitoring, inclusive of on the job support and expert assistance related to human rights standards and follow up mechanisms
- ▶ Training events on Human Rights reporting and monitoring for MoJ Staff and other relevant institutions
- ▶ Guidelines and a methodology toolbox (do's and don'ts) on EU Human Rights and Standards, and follow up UN mechanisms for human rights including data collection, reporting on implementation of relevant strategic documents (AP23, anti-discrimination strategic documents and Dedicated Action Plan for the Realisation of Rights of National Minorities) and incorporation of universal and regional human rights mechanisms in relevant strategic documents



## **Support in raising public awareness on the measures and results planned and achieved in the implementation of AP23**

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- ▶ A series of training workshops on communication skills for the promotion of the Action Plan for Chapter 23 activities for the MoJ staff and the focal points for CH23 AP
- ▶ Booklet on Chapter 23, targeting wider public
- ▶ A series of round tables, public debates, media briefings
- ▶ On-the-job media relations and social network promotions expertise provided to MoJ

## IT INFRASTRUCTURE/E-JUSTICE



e-Justice and the implementation of infrastructure related projects in the judicial sector have been key reform priorities of the Ministry of Justice.



### **Key activities and outputs in these areas include:**

- ▶ Ex-post Cost Benefit Analysis of efficiency of reconstructed court and prosecutorial offices in the Republic of Serbia
- ▶ Analytical report on the function of the donor project database & Proposals for improvement of database content and reporting mechanisms against best comparative practices
- ▶ Assessment of the roles and duties of the MoJ Project Section, the MoJ e-Justice Department and the Sectorial Council for ICT; providing recommendations for the improvement of planning, programming, implementation and monitoring of ICT projects in the justice sector
- ▶ Manual with a focus on planning, programming, implementation and monitoring of ICT projects in the justice sector
- ▶ IT Support for the Automation of the Enforcement Procedure: addressing design and test phase of the e-Auction platform, central to the efficiency of the enforcement procedure; contributing to a standardised and consistent application of the procedure by public enforcement officers and courts; providing extensive technical support to the MoJ in managing the development of the e-Auction platform
- ▶ Study Visit to Tallin, Estonia, for the representatives of the Ministry of Justice, Courts and the Chamber of Public Enforcement Officers. Topic: IT solutions in the judiciary and the results of implementation of such solutions in the areas of civil, enforcement and bankruptcy proceedings
- ▶ Round Table on Judicial Infrastructure Investment organised in cooperation with the MoJ: gathering representatives of relevant Serbian judicial institutions, DEU and international projects dealing with the Rule of Law in order to assess the current status in the field of Judicial infrastructure

# CHAPTER 23 ACTION PLAN

The Ministry of Justice published the first draft of the revised Chapter 23 Action Plan in January 2019, inviting all interested parties to submit comments on this strategic document. In February 2019, the Project supported the MoJ in organising the first public debate on the first draft of the Revised AP23. This event was attended by representatives of State institutions, civil society organisations, ambassadors of the EU Member States and international organisations.

The new AP23 text was submitted to the European Commission for opinion and recommendations in June 2019. The Project facilitated the meeting of the Negotiation Working Group on Chapter 23, dedicated to the presentation and the discussion of the comments produced by the European Commission on the revised Action Plan 23. In parallel with the process of revising the Action Plan for Chapter 23, the Judicial Development Strategy 2019-2024 has also been drafted. Both documents are to be adopted by the Government of Serbia.

The Project provided recommendations for the improvement of the mechanisms for the implementation of the new Judicial Development Strategy and the revised Action Plan for Chapter 23, supported the preparation of the proposal for the new monitoring and reporting methodology, as well as the early warning mechanism of the AP23, and has contributed to an inclusive process of AP23 revision, drafting, and consultation that complies with EU standards for public and civil society engagement.

Specifically, the draft Revised AP 23 shared with the EC was adapted in line with the recommendations and guidelines delivered by the Project, namely:

- ▶ *the Analytical report on the implementation, coordination, monitoring and reporting on AP23 with emphasis on the respective methodologies (and/or their lack of or shortcomings), which includes a set of recommendations and guidelines for developing the most appropriate methodology for monitoring and reporting of the revised AP23.*
- ▶ *the Analysis of the Secondary Reports on the alignment level of the AP23 with relevant reports on implementation and IBMs, accompanied by a set of recommendations*
- ▶ *the Gap Analysis of the knowledge and skills in relation to providing expert support to the implementation of the National Judicial Reform Strategy 2013-2018 and the Action Plan for Chapter 23 and provided*

**EU FOR JUSTICE -  
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