

**EU  
FOR  
JUSTICE**

Support for  
Chapter

**23**

# NEGOTIATING CHAPTER 23

Legal certainty, easier access  
to justice and protection  
of rights of all citizens



**Title:**

Negotiating Chapter 23

**Publisher:**

*EU for Justice: Support for Chapter 23*

**Circulation:**

1000

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# FOREWORD

European Union (EU) policies in the area of judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice. Negotiations acquis Chapter 23: Judiciary and Fundamental Rights is thus at the centre of the EU Enlargement process, framing the most important reform efforts of candidate and potential candidate countries in the area of rule of law.

The Republic of Serbia is fully committed to the process of European integration, and is aware that this process requires substantial and fundamental changes in the judiciary, the anti-corruption system, and the framework of protection of fundamental rights, both at the normative and implementation levels. The Government of the Republic of Serbia is thus pursuing judicial reform in accordance with the national strategic framework and the EU's accession requirements.

The European Union continues to support the advancement of the state of the Rule of Law in Serbia, and remains responsive to the needs and challenges Serbian institutions face in their efforts to bring Serbian standards in the area of freedom, security and justice closer to those in the EU.

Accession to the European Union and implementation of necessary reforms do not only involve institutions, but the entirety of society. Therefore, it is important that these reforms are understood and that all stakeholders – citizens and policymakers alike – actively participate in creating a solid legal framework and reliable institutions that enhance the timely delivery of justice for, and guarantee the protection of, fundamental rights of Serbian citizens. This booklet contains some of the core aspects of negotiations acquis Chapter 23: Judiciary and Fundamental Rights, as well as examples of key reform measures taken by the Serbian Government in recent years and the benefits to Serbian citizens resulting from these measures.

*Strengthening the Capacities of the Ministry of Justice in line with the Requirements of the EU Accession Negotiation Process (EU for Justice: Support for Chapter 23)* is an EU funded Technical Assistance project that aims to improve the justice sector in the Republic of Serbia by enhancing the capacities of the Ministry of Justice as the leading institution in the judicial reform process.



# RULE OF LAW

## Backbone of the European Union Values

The European Union was founded on the principles of human dignity, freedom, democracy, equality, the rule of law and the respect for human rights (Article 2, *Treaty on European Union*). Membership of the EU therefore means committing to its core values.



By supporting the rule of law reform in candidate countries, the European Union aims to ensure the same level of respect for fundamental values and democratic culture as in its own Member States.

### **‘Rule of Law’ is not an abstract term.**

**Rule of law therefore underpins all aspects of society, both public and private, shaping the way individuals interact with one another and with institutions.**

**Cultivating a system that provides a fair and just response to the needs of individuals and society as a whole, and also shows commitment to human rights and the rule of law, leads to a law-abiding citizenry and to institutions that ensure respect for fundamental rights. This ultimately leads to the stability of democratic institutions and helps to reduce levels of corruption.**

### **Rule of law is**

- ▶ your right as an employee to request legally your monthly salary when not paid by your employer
- ▶ your right to not be discriminated against on the grounds of your gender, nationality or sexual orientation
- ▶ the rights of persons with disabilities to independence, social and occupational integration and participation in the life of the community
- ▶ the accountability of perpetrators for their actions, whether these be threats or acts of violence, or associated with criminal activity such as corruption
- ▶ that, when you are pregnant, your employer takes reasonable steps to remove occupational hazards such as standing or sitting for extended periods without adequate breaks
- ▶ that when your income is too low to afford a lawyer you are still guaranteed free and qualified legal services to exercise your rights to access the justice system



The content of Chapter 23: Judiciary and Fundamental Rights is based on the principles introduced through Article 2 of *The Treaty on European Union*. This Chapter of the *acquis* is structured into three key areas: judiciary, the fight against corruption, and fundamental rights.

1

JUDICIARY

2

FIGHT  
AGAINST  
CORRUPTION

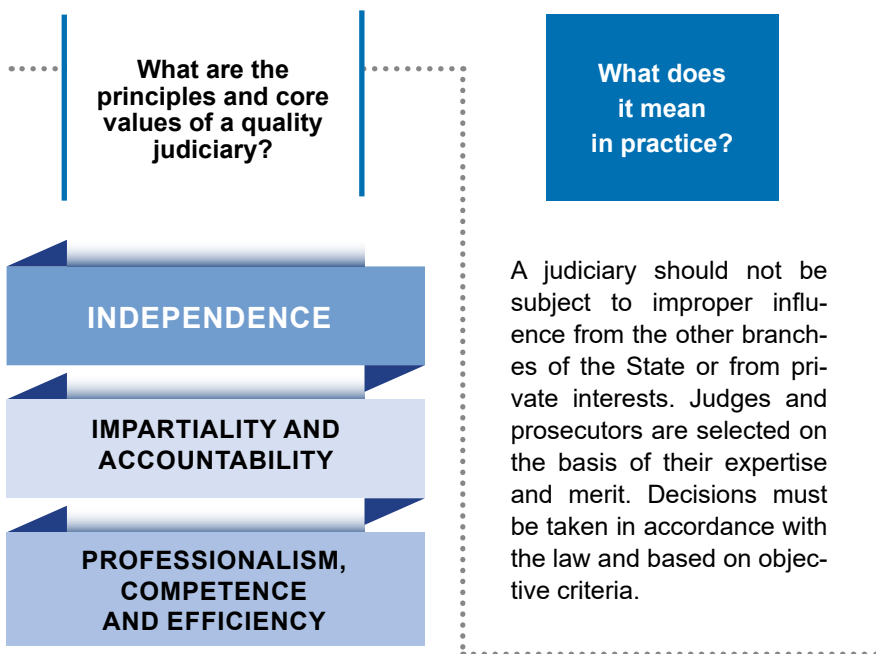
3

FUNDAMENTAL  
RIGHTS

# 1 JUDICIARY

One of the key conditions to upholding the rule of law is a functional judiciary that follows core principles and values as mentioned below.

**A WELL-FUNCTIONING JUSTICE SYSTEM provides LEGAL CERTAINTY, CHECKS ON OTHER BRANCHES OF THE STATE and thus HELPS SECURE ECONOMIC GROWTH AND SOCIAL PROGRESS.**



## | Good practice | The EU Justice Scoreboard

The EU Justice Scoreboard is an information tool that assists the EU and its Member States in achieving more effective justice by providing objective, reliable and comparable data on the quality, independence and efficiency of justice systems across all Member States.

To read annual editions of the Scoreboard, visit [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_en)

## 2 FIGHT AGAINST CORRUPTION

Corruption takes many forms, such as bribery, trading in influence, abuse of power, mismanagement of public funds, conflicts of interest, and nepotism. Corruption is perceived as a serious challenge and occupies pole position within the EU agenda.

### Why fight the corruption?

- Corruption damages the rule of law and social justice.
- The impacts of corruption disproportionately affect the most vulnerable people in society.
- Widespread corruption deters investment and weakens economic growth.
- Undetected corruption in the public sector undermines public trust in institutions, wastes public resources and money, causes injustice by giving some an advantage at the expense of others, and diminishes the abilities of institutions to provide adequate public services.



According to the World Bank, the average income in countries with a high level of corruption is about a third of that of countries with a low level of corruption. Also, the infant mortality rate in such countries is about three times higher and the literacy rate is 25% lower.

### What does it take to win fight against corruption

- > Political will
- > Legal framework
- > Professionalisation
- > Improved control
- > Sanctioning mechanisms
- > Active support and participation of the whole society



### | Good practice | The Group of States against Corruption (GRECO)

GRECO is the Council of Europe's anti-corruption body. It aims to improve the capacity of its members to fight corruption by monitoring their compliance with anti-corruption standards. GRECO helps states to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms. In 2019, the European Union became an Observer within GRECO, reinforcing the joint efforts to strengthen the rule of law and fight against corruption across Europe.

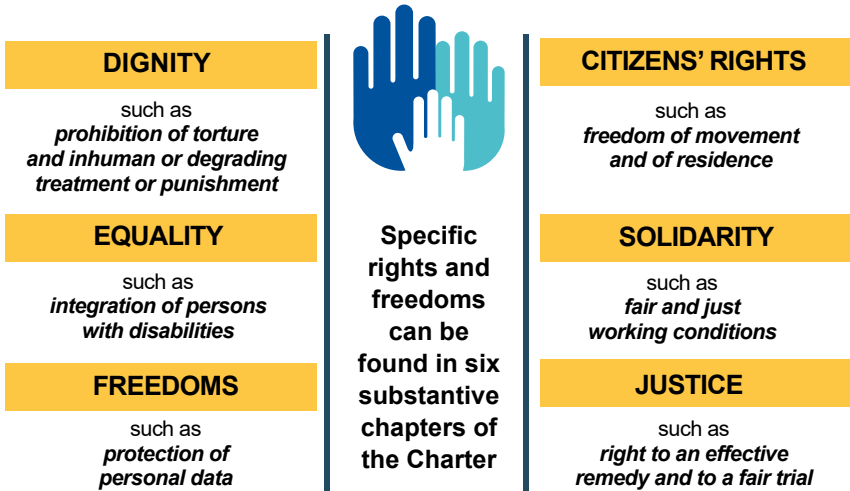
To learn more about GRECO and its activities, visit <https://www.coe.int/en/web/greco>



# 3 FUNDAMENTAL RIGHTS

The protection and promotion of fundamental rights is a general principle of EU law and International Law. The EU Charter of Fundamental Rights brings together, in a single document, a range of personal, civic, political, economic and social rights enjoyed by everyone living in the European Union. Whether the right to remain free from discrimination on the basis of your age or ethnic background, equality between women and men, healthcare, or the right to access the justice system, these rights must all be respected, promoted and protected.

The Charter became legally binding for EU Member States when the Treaty of Lisbon entered into force in December 2009.



To learn more about all rights and freedoms, visit <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

## | **Good practice | The European Union Agency for Fundamental Rights**

The European Union Agency for Fundamental Rights (FRA) is an EU Agency specifically tasked with providing independent, evidence-based advice on fundamental rights. The Agency helps to ensure that the fundamental rights of people living in the EU are protected.

To learn more about the Agency and its activities, visit <http://fra.europa.eu>

# TOWARDS THE EUROPEAN UNION

2012

The Republic of Serbia was granted European Union candidate status in March 2012.

2013

In July 2013, the National Assembly adopted the National Judicial Reform Strategy (NJRS) for the period 2013-2018, and the Government subsequently adopted its accompanying Action Plan for implementation of the NJRS.

2014

Accession negotiations started in January 2014.

2016

In March 2016, the Government adopted the Action Plan for the implementation of Chapter 23 and in July 2016 accession negotiations in relation to this Chapter commenced.

The Ministry of Justice is the institution responsible for the negotiation process for Chapter 23, which in total involves more than 60 different institutions and over 150 civil society organisations, and the key government body guiding, steering and monitoring the judicial reform process in Serbia.

The domain of Rule of Law has been recognised as a key accession priority and Chapter 23: Judiciary and Fundamental Rights of the Union acquis became central to Serbia's accession to the European Union and will remain a key focus throughout the entire process.



**Implementation of the measures of the Action Plan for Chapter 23 shall not be understood as an imposed condition of European Union membership, but rather a key step toward higher standards and protection of rights that will be enjoyed by every citizen of Serbia.**



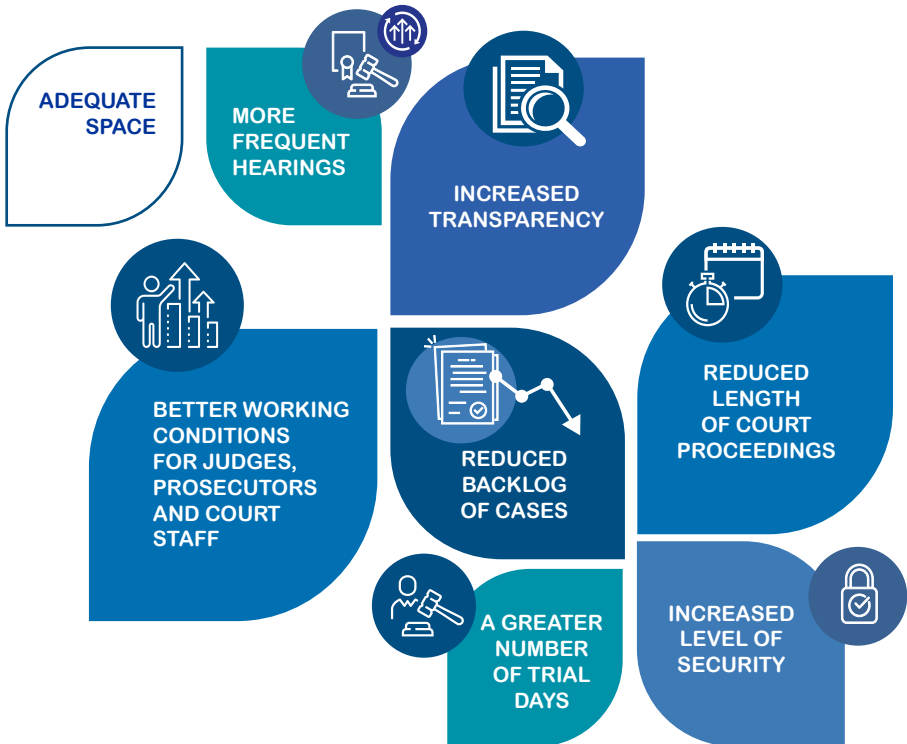
Previous years have been marked by numerous reform measures including the adoption of a number of laws. The following pages contain some of the key results accomplished to the end of 2019. Many of these important goals have been reached in part due to assistance provided by the European Union.

# JUDICIAL EFFICIENCY

## Infrastructure



In the period 2012-2019, nearly RSD 12 billion was invested in judicial infrastructure that resulted in more than 6,200m<sup>2</sup> of newly built facilities, 76,500m<sup>2</sup> of reconstructed and over 100,000m<sup>2</sup> of repaired and renovated space. Over 1 billion RSD has been invested in modern IT equipment and adequate furnishing.



# E-Justice



## → Judicial Information System

ELECTRONIC DATA EXCHANGE BETWEEN JUDICIAL AND OTHER STATE BODIES

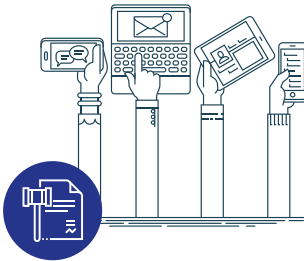


Since October 2017, the Judicial Information System has processed over 4 million electronic inquires, which replaced over 8.5 million paper memorandums. In this way, the Government of the Republic of Serbia has made savings totalling over RSD 1billion.



**4 million** electronic inquires **replaced** **8.5 million** paper memorandums

## → E-Court



- Citizens and lawyers can use the E-Court application in administrative disputes. There is no need to go to court to file a lawsuit or lodge a complaint
- Interested parties can review the entire case online
- All notifications related to the proceeding are sent via the e-application, as well as by email and SMS

## → ProNep

ELECTRONIC DATA EXCHANGE BETWEEN PUBLIC NOTARIES, LAND REGISTRY AND TAX OFFICE FOR LEGAL TRANSACTION OVER PROPERTIES AND TAXES



Since July 2018, nearly 400,000 electronic documents have been exchanged between public notaries and land registry. The Public Notary's Office became an 'one-stop-shop' taking on services provided by five different administrations, saving citizens over 1.6 million days.



- Public notaries now electronically submit the legal transaction over properties agreements and file tax returns to competent authorities.
- The newly introduced system also prevents a property from being sold twice

## Strengthening of judicial professions

PUBLIC ENFORCEMENT OFFICERS AND PUBLIC NOTARIES



**New Law on Enforcement and Security entered into force in July 2016**  
 Contributed to the finalisation of nearly 1.5 million old cases



**New amendments to the Law on Enforcement and Security entered into force in January 2020**



### Protection from and prevention of abuse and misuse in practice

- A homeowner may not lose their apartment or house, should that be his/hers only property, due to a debt to utility companies which is under EUR 5,000
- Two-thirds of salary and pension income (or half in the case of minimum wages) can no longer be prescribed and enforced as compensation
- No income-based on financial regulation for family support can be the subject of enforcement

### Introduction of the e-Auction

- A **public bailiff** will have no information on bidders
- A **public bailiff**, their deputy, assistant or family member and certain kinship may not present themselves as a (potential) buyer of property which is subject of enforcement
- Greater transparency

- Introduction of the court electronic bulletin—provides for transparency and simple review of all documents, without visit to court, which have not been delivered by the court or public bailiff by mail

# PRINCIPLE OF OPPORTUNITY

The principle of opportunity of prosecution is introduced within the Criminal Procedural Law. The principle of opportunity rationalises criminal justice and reduces the case overload in courts, at the same time following the general world trend in criminal procedural law marked by the idea of restorative justice.

The funds collected on the basis of opportunity are allocated through public tender.

The Ministry of Justice announced the first public tender for the allocation of funds based on the principle of opportunity in March 2016, when over RSD350 million were allocated to 67 beneficiaries, among whom were primarily schools, centres for social work, health centres, hospitals, homes for elderly people, and gerontology centres.



To end of 2019, over RSD1.6 billion of funds have been allocated to 450 beneficiaries (Obstetrics and Gynaecology Clinic 'Narodni Front', the maternity wards in the General Hospital in Čačak, the University Children's Clinic in Belgrade, the 'Svetozar Marković' University Library, Vojvodina Contemporary Arts Museum, the monasteries of Sopoćani, Studenica and Gradac, to name but a few).



Gynaecology Clinic  
'Narodni Front'



University Library  
'Svetozar Marković'

**1.6**  
**billion RSD**

**450**

**beneficiaries**

2019



# PREVENTION AND FIGHT AGAINST CORRUPTION



**A new Law on the organisation and jurisdiction of government authorities to combat organised crime, terrorism and corruption entered into force in March 2018**

## > Professionalisation

- 4 regional anti-corruption centres (Belgrade, Novi Sad, Niš and Kraljevo)
- Establishment of special departments for the suppression of corruption within the Ministry of Interior, public prosecutor's offices and courts
- Highly specialised prosecutors, judges and police officers
- Task forces for special assignments led by a prosecutor
- Mobilisation and close cooperation of 13 institutions



**From March 2018 to end of December 2019, the special anti-corruption departments brought charges against 1398 persons and passed 916 guilty verdicts in corruption trials.**



**896**  
investigations

**916**  
guilty verdicts







**A new Law on Anti-Corruption enters into force in September 2020**

- Precise rules for preventing the conflict of interests and accumulation of roles
- Public officials will have to provide more precise information on their properties to the Anti-Corruption Agency
- Expanded competencies of the Anti-Corruption Agency and assurance of its legal and financial independence

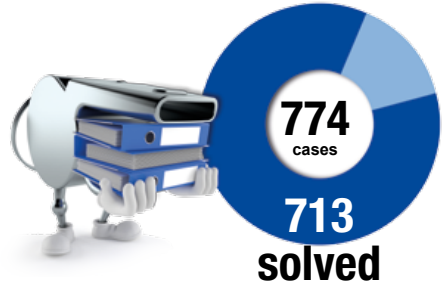


**Law on Protection of Whistle-Blowers entered into force in June 2016**

- The employer is obliged to notify in writing every gainfully employed person about their right to protection in accordance with this Law
- An associated person shall have the same protection as a whistle-blower, if they argue that it is probable that a harmful action will be undertaken against them due to their connection to the whistle-blower



**From the beginning of the implementation to the end of December 2019, 774 reported cases ended up before the courts, with 714 of these being resolved**



**Law on Lobbying entered into force in August 2019**

**This is the first legal norm to regulate lobbying in Serbia, which is one of the anticorruption measures aiming to decrease various types of influences on shaping public policies. The Law prescribes the establishment of the official Register of Lobbyists run by the Anti-Corruption Agency**

The Anti-Corruption Agency issues certificates required for lobbying.

- The public official is required to inform the Serbian Anti-Corruption Agency about lobbying activities

# PROTECTION OF FUNDAMENTAL RIGHTS

**Domestic violence** is considered to be any act of physical, sexual, psychological or economic violence of a perpetrator upon a person with whom they are in a current or former relationship, or upon a person(s) with whom they are a blood relative in a direct line (parent, sibling or child), or with whom the relationship of adoptive parent, adopted or foster child or foster parent exists, or upon any other person with whom they live or have lived within the same household.



**A new Law on the Prevention of Domestic Violence entered into force in June 2017**

- > Urgent measures for removing perpetrators from the family unit and prohibiting them from approaching their victims again
- > Coordination between competent authorities (i.e., Law enforcement, public prosecutor's offices and social services)
- > Individual protection plans for victims, containing concrete measures prescribed by competent authorities
- > Free legal aid to support victims

**The Criminal Code has been amended to the effect that Serbia now has legislation which conforms to the Istanbul Convention which is the legal instrument of the Council of Europe in this field. Four new criminal offences have been introduced: persecution, sexual harassment, forced marriage and female genital mutilation. These offences provide increased legal protection for women.**



If a citizen lacks sufficient resources,  
the State bears the costs of legal aid

A new Law  
on Free Legal  
Aid entered  
into force in  
October 2019



**Access to justice  
for everyone**

► secured equal access to justice for recipients of social welfare, low-income citizens whose cases paying for the legal assistance would lead to them become social welfare recipients, and certain vulnerable groups such as victims of trafficking, torture and domestic violence





**A new Law on Protection of the Right to a Trial within a Reasonable Time entered into force in January 2016**

- > Availability of remedies to accelerate the proceedings
- > Citizens have a right to complain to the president of the court if they consider their trials are taking too long
- > Citizens have a right to appeal to the higher instance court directly, if their complaint is not adopted by the first instance' court president

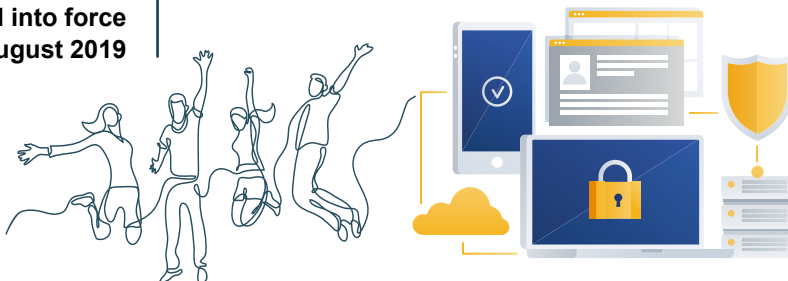
If a right to a trial within reasonable time is proved to be violated, the president of the court prescribes to the acting judge to urge the trial and, also, there is a possibility of the claim for compensation

The party shall not pay court fees in these proceedings, which shall be urgent and have priority in deciding.



**A new Law on Personal Data Protection entered into force in August 2019**

- > Every citizen has the right to know who collects, holds or processes their personal data, such as personal identity number or bank account number, physical appearance and characteristics, biometric data, telephone number, IP address, passwords.



**All personal data of Serbian citizens are now protected to the same extent as in EU Member States.**



**A new Law on  
Prevention of  
Discrimination  
against Persons  
with Disabilities  
entered into force  
in February 2016**

### **The key principles of the Law are**

- > Prohibition of discrimination against persons with disabilities
- > Respect for the human rights and dignity of persons with disabilities
- > Inclusion of persons with disabilities in all spheres of social life on an equal basis

### **NATIONAL MINORITIES**

- > A guaranteed right to enter data on the ethnicity of members of national minorities in public documents and official records, to facilitate access to education and employment
- > Improved functioning of National Councils of National Minorities
- > Improved availability of textbooks and teaching aids in the languages of national minorities
- > The right to discrimination-free admission to pre-school and school education for the Roma population
- > Support to the Roma population in preventing the trend of premature leaving of the education system



# EU FOR JUSTICE

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Support for  
Chapter

23









LEGAL

**CERTAINTY**

EASIER

ACCESS TO

JUSTICE

PROTECTION

OF RIGHTS

OF ALL

**CITIZENS**

# PROJECT AND ITS SUPPORT

*Strengthening the Capacities of the Ministry of Justice in line with the Requirements of the EU Accession Negotiation Process (EU for Justice - Support for Chapter 23)* is an EU funded Technical Assistance project. Its main objective is to improve the justice sector in the Republic of Serbia, an EU candidate country since March 2012, in line with EU accession requirements. The Project commenced in May 2018 and has a duration of two years.

*The purpose of the EU for Justice: Support for Chapter 23 project is 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.*

The Project is organised in three Components, each geared towards the attainment of three key results, namely:

<b>Component 1</b>	<b>Normative Framework and Standards</b>
	<b>Result 1:</b> Increased alignment of the normative framework and standards with Chapter 23
<b>Component 2</b>	<b>Implementation of the Ministry of Justice tasks and obligations</b>
	<b>Result 2:</b> Increased implementation of MoJ tasks and obligations envisaged within the judicial reform process, as well as tasks from AP23 in the context of Chapter 23 accession negotiations
<b>Component 3</b>	<b>Ministry of Justice-led coordination, monitoring and reporting on the AP's implementation</b>
	<b>Result 3:</b> Improved MoJ-led coordination of numerous authorities competent for the implementation of AP23, as well as more efficient monitoring and reporting on the AP's implementation

**EU FOR JUSTICE -  
SUPPORT FOR CHAPTER 23**

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Deligradska 4,  
11 000 Belgrade, Serbia  
T. +381 11 2657 311  
RSMoJ4Accession@gdsi.ie

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This project is implemented by  
a consortium led by GDSI Limited



[www.gdsi.ie](http://www.gdsi.ie)