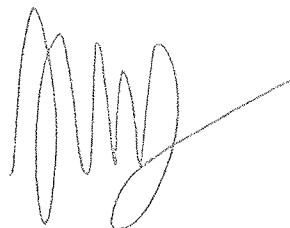


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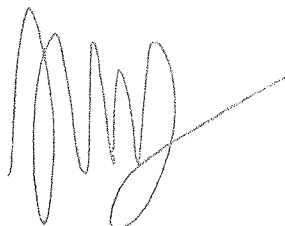
ANNEX II: TERMS OF REFERENCE

**Strengthening Capacities of the Ministry of Justice in line with the Requirements of
the EU Accession Negotiation Process**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

ANNEX II: TERMS OF REFERENCE

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BACKGROUND INFORMATION

1.1. Partner country

Republic of Serbia

1.2. Contracting Authority

The Delegation of the European Union (EUD) to the Republic of Serbia.

The direct beneficiary will be the Ministry of Justice (hereinafter: MoJ) of the Republic of Serbia whose office are located at Nemanjina 22-26, 11000 Belgrade, Serbia.

1.3. Country background

The Republic of Serbia is located at the crossroads of Central and Southeast Europe and is the central part of the Balkans.

The European Council granted the status of candidate country to Serbia in March 2012 and in June 2013 granted that accession negotiations should be opened. Accession negotiations were formally launched in January 2014.

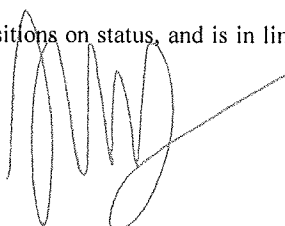
The Republic of Serbia signed the Stabilisation and Association Agreement (SAA) with the European Union (EU) on 29 April 2008 which, upon completion of the ratification process in the National Assembly of the Republic of Serbia, the Parliaments of EU Member States and the European Parliament, entered into force on 1 September 2013. Serbia was granted EU candidate status on 1 March 2012, whereas the European Council Decision of 28 June 2013 on initiating accession negotiations with Serbia, opened the most demanding phase of EU integration – membership negotiations, which imply full alignment with the EU system, values and legislation.

Following the adoption of the framework for accession negotiations with Serbia by the European Council in December 2013, the first Intergovernmental Conference with Serbia was held in January 2014. The analytical examination of the EU *acquis* (screening process) started in September 2013 and it was completed in March 2015. Serbia remained committed to its strategic goal of EU accession and has continued to build a track-record in implementing the obligations of the SAA. It is implementing an ambitious political and economic reform agenda and successfully finalised the drafting of the action plans required for the opening of the rule of law negotiating chapters. Serbia has played a constructive role in the region. It remained committed to the normalisation of its relations with Kosovo*¹ and came to key agreements with Kosovo within that process. It has also had a very constructive role in managing the migration/refugee crisis.

1.3.1. The economic situation

As regards the **economic criteria**, Serbia is moderately prepared in developing a functioning market economy. Good progress has been made to address some of the policy weakness and the positive momentum for advancing structural reforms needs to be preserved. Serbia's economy is recovering from a recession. As a result of significant consolidation measures and better tax collection, the budget deficit has fallen sharply. Fiscal consolidation should be sustained and underpinned by implementing reforms as planned. Inflation remains very low, allowing the central bank to reduce interest rates. Unemployment, though very high, has fallen below 20%. Progress has been achieved with restructuring of publicly owned companies and the main utilities, but it needs to advance

¹ This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo* Declaration of Independence



further. The private sector is under development and hampered by weaknesses in the rule of law and difficult access to finance. The process of economic reforms needs to continue with particular emphasis on restructuring state owned enterprises and public utilities.

Serbia is moderately prepared in terms of capacity to cope with the competitive pressure and market forces within the Union. The education system has remained inefficient, physical infrastructure under developed and the informal sector and state aid are substantial. Serbia needs to improve the quality of the education system, gearing it towards labour market needs, stimulate private investments and speed up the implementation of public infrastructure projects. It needs to better regulate para-fiscal charges and provide a transparent framework of state support to the private sector, redirecting it towards efficient and horizontal objectives, such as support to SMEs and research and development.

As regards its ability to take on the obligations of membership, Serbia has continued to align its legislation with the EU *acquis* across the board. Adequate financial and human resources and sound strategic frameworks will be crucial to maintain the pace and quality of reforms.

Serbian legislation is now broadly aligned in areas such as intellectual property, anti-trust and mergers, and monetary policy. Serbia set up a National Investment Committee (NIC), bringing together national authorities, donors and international financial institutions (IFIs) to coordinate Serbian investment policy in key sectors of the single project pipeline (energy, transport, environment and business-related infrastructure), which sets an example in the region. In the areas of public procurement, statistics and financial control, Serbia is moderately prepared. Serbia will need to align its foreign and security policy progressively with the European Union's Common Foreign and Security Policy in period up to accession.

1.3.2. Relations between the EU and Serbia

The Republic of Serbia is committed to the process of European integration and is aware that the process requires substantial, consistent and fundamental changes in the judiciary, the anti-corruption system and the protection of fundamental rights, both at the normative and the implementation level. In this sense, in the process of developing the reform steps for Chapter 23, Serbia was principally guided by the EU *acquis*. In areas where there is no *acquis* or it does not cover the whole area, the established standards and best comparative practices were used as a guide for guiding reforms, particularly considering the legal heritage of the Republic of Serbia, as well as socio-economic factors conditioning the applicability of the solutions that provide good results in other legal systems.

Serbia is participating in the Stabilisation and Association Process. As mentioned above, the Stabilisation and Association Agreement between the EU and Serbia was signed in April 2008 and entered into force on 1 September 2013. It replaced the Interim Agreement (IA) on trade and trade-related matters which had entered into force on 1 February 2010. Serbia has continued to build a satisfactory track record in implementing the obligations of the SAA and IA. An agreement was reached on the adaptation of the trade provisions of the SAA, in order to take into account Croatia's accession to the EU and with a view to maintaining traditional trade flows. Further efforts, however, are needed in particular in the area of state aid control, where the independence of the Commission for State Aid Control needs to be further established and the exemption of enterprises under privatisation from state aid rules need to be repealed.

The regular political and economic dialogue between the EU and the country has continued. The first meeting of the Stabilisation and Association Council took place on October 21 2013. Serbia participates in the multilateral economic dialogue with the European Commission and the EU Member States to prepare the country for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union.

In July 2014 the Government adopted a National Plan for the Adoption of the *Acquis* (NPAA) for the period 2014-2018. The Serbian European Integration Office continues to effectively coordinate government activities relating to the EU integration process.

Visa liberalisation for citizens of Serbia travelling to the Schengen area has been in force since December 2009. In the framework of the post-visa liberalisation monitoring mechanism, the Commission regularly assesses progress made by the country in the implementation of reforms introduced under the visa roadmap. This also includes an alert mechanism to prevent abuses, as coordinated by Frontex. The adoption of the suspension clause in the Schengen regulation represents a possible challenge for Serbia, due to the difficulty to reverse the phenomenon of so-called bogus asylum seekers to the Schengen area in the short term. A Readmission Agreement between the European Union and Serbia has been in force since January 2008.

EU financial assistance is provided through the Instrument for Pre-Accession Assistance (IPA). The assistance follows a sector-based approach focusing on the following sectors: justice and home affairs; public administration reform; social development; private sector development; transport; the environment, climate change and energy; and agriculture and rural development. In addition, the country continues to benefit from various regional and horizontal programmes. Cross-border cooperation is also used to promote capacity building and dialogue between the local and regional authorities of neighbouring countries, namely Bulgaria, Hungary, Romania, Bosnia and Herzegovina, Croatia and Montenegro.

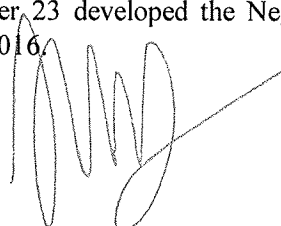
For the period 2007-2013, the Commission had earmarked €1.384 billion for IPA projects to be implemented in the country. With regards to the institutional framework, management of IPA components I and II (IPA 2007-2013 period) was conferred on Serbia in March 2014, under the centralised and decentralised implementation system. Work is on-going to align programming and implementation structures with EU regional policy and to increase the absorption and co-financing capacity of the EU-funded programmes. The Commission adopted the IPA Indicative Strategy Paper (hereinafter the Strategy Paper) which sets out priorities for EU financial assistance for the period 2014-2020 to support Serbia on its path to EU accession. The Strategy Paper sets meaningful and realistic objectives, identifies the key actions and actors, describes the expected results, indicates how progress will be measured and monitored, and sets out indicative financial allocations. The priorities defined for financial assistance will serve as a basis for the (multi-) annual programming of IPA II funds in 2014 to 2020. The indicative financial allocations allow for an appropriate amount of assistance to remain available as a “reward” on the basis of an assessment of performance and progress over a period of several years but not later than in 2017 and 2020 respectively, as defined in the IPA II Regulation.

Serbia participates in a number of **EU programmes**: The Seventh Framework Programme for Research and Technological Development, Progress, the Competitiveness and Innovation Programme, the Culture Programme, the Europe for Citizens Programme, the Customs Programme and the Fiscal Programme.

1.3.3. Strategic framework

In July 2013 the National Assembly adopted the National Judicial Reform Strategy for the period 2013-2018 (hereinafter: NJRS) and the Government subsequently adopted its accompanying Action plan for implementation of the National Judicial Reform Strategy (hereinafter: AP NJRS) which envisages concrete measures and activities for implementation of strategic objectives, defines the deadlines and competent authorities for its implementation and financial sources.

The Action plan for Chapter 23 (hereinafter: AP23) was drafted through an inclusive process and following extensive consultations with the European Commission (EC). Based on measures and activities in the AP23, the Negotiation group for Chapter 23 developed the Negotiation position, which was adopted by the Government on 25th of March 2016.



The AP23 represents the key overarching strategic document in the field of the Judiciary and Fundamental Rights, with which all the other strategic documents must be aligned. Horizontal and strategic coordination arising from AP 23 should enable a precise definition of the public policy in this area, whereas implementation, coordination, timing and funding of the reforms should be significantly improved, whereby additional burdens are placed on the MoJ as a coordination focal point. The AP23 foresees the transfers of certain competences from the MoJ to the State Judicial Council and the High Prosecutorial Council. Such transfers should be borne in mind during the inception and implementation phases of the project.

The NJRS with its accompanying Action plan represents the key strategic document in the field of the judiciary which envisages independence, impartiality, competence, accountability and efficiency of the judiciary as five basic principles. Both documents define priorities, strategic objectives and strategic guidelines for the reform measures.

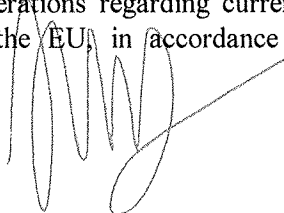
Alongside AP23 and the NJRS, the MoJ is an important stakeholder in numerous strategic documents within the field of fundamental rights, namely: The Strategy for Prevention and Protection from Discrimination, The National Strategy for Combating Violence against Women in Family and Partner Relationships, The National Strategy for the Prevention and Protection of Children from Violence, The Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions, The Strategy for the Development of Criminal Sanctions Enforcement System, The Action Plan for Enforcement of Right of National Minorities, The Strategy for Combating Human Trafficking, The Strategy and Action Plan to Combat Violence and Misbehaviour at Sports Events, etc.

In the process of drafting AP23, the fact that priorities and courses of action were defined and that tangible progress was made in reforms through a series of strategic documents in the areas such as the judiciary, anti-corruption, anti-discrimination, Roma rights, media freedom and the like, was a mitigating circumstance. The AP 23 follows the course mapped out in these strategic documents, but also advances the process by defining objectives and activities for which the subsequent need arose or it was necessary to identify a more detailed evaluation. In this sense, the AP 23 represents the overarching strategic document with which all the other strategic documents shall be aligned. In this way, the public policy in this area will be precisely defined, and implementation, coordination, timing and funding of the reforms shall be significantly improved.

1.3.4. Institutional framework for EU accession negotiations

In consideration of the strategic framework outlined here above, Serbia has developed a comprehensive and complex institutional framework related to accession negotiations in general but also for specific accession chapters in particular. The Government established a Negotiating team for Negotiations of accession of the Republic of Serbia to European Union, which is responsible for conducting EU accession negotiations. In order to enhance overall coordination the Government constituted a Coordination body for the process of accession of the Republic of Serbia to the EU which shall consider the most important issues and guide the operations within the scope of the public administration in the process of accession of the Republic of Serbia to the European Union. The structure of the Coordination Body includes: 1) President of the Government; 2) First Vice-President of the Government; 3) Government Vice-President and Minister of Labour, Employment, and Social Policy; 4) Government Vice-President and Minister of External and Internal Trade and Telecommunications; 5) Minister in charge of foreign affairs; 6) Minister in charge of the European integrations; 7) Minister in charge of finance; 8) Minister in charge of agriculture, forestry, and water management; 9) Minister in charge of environment. The European Integration Office Director and Head of the Negotiating Team for Accession of the Republic of Serbia to the European Union shall participate in activities of the Coordination Body.

The Coordination body shall undertake operations regarding current issues within the process of accession of the Republic of Serbia to the EU, in accordance with guidelines given by the



Coordination Body. The structure of the Coordination Body Council shall include: the member of the Government responsible for European integration, who is also a chairman of the Council of the Coordination body, the Director of the Office for European Integration, Head of the Negotiating Team, the heads of negotiating groups, state secretaries of the ministries whose representatives do not lead the negotiating groups, a representative of the National Bank of Serbia, Deputy Director and Coordinator for EU funds in the EU Integration Office and the representative of the Republic Secretariat for Legislation. Expert and administrative-technical support to the Coordination Body operation is provided by the Serbian European Integration Office (SEIO).

For the purpose of negotiations within specific negotiation chapters Negotiation groups have been formed. The Coordination of work of the Negotiation group for Chapter 23: Judiciary and Fundamental rights was entrusted to the MoJ in the AP23. Bearing in mind the fact that Chapter 23 is one of the most important and complex chapters covering rule of law principles and with wide variety of horizontal issues, the Negotiation group for Chapter 23 encompasses more than fifty governmental bodies stemming from all three branches of the state structure (i.e. the government, the judiciary and the National Assembly), and thus presents a unique coordination challenge.

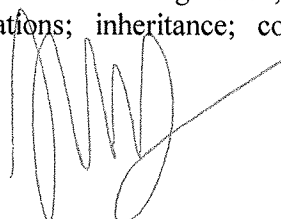
In order to facilitate efficient monitoring of the implementation of the AP23 the Government formed the Council for implementation of the AP 23 as an advisory-expert working body in charge of monitoring of the implementation of activities envisaged in the AP23, anticipate and instigate early warning mechanism in case of delays and other problems in the implementation of the Action Plan, and coordinate the reporting process. The Council for AP23 shall provide expert support to the Negotiating Group for Chapter 23 encompassing:

- Adoption of reports on the implementation of the AP 23;
- Submission of an initiative for the update of the AP 23 to the President of the Negotiation group for Chapter 23;
- Coordination with representatives of other bodies responsible for the implementation of relevant strategies and action plans;
- Analysis of collected and compiled statistical data necessary for making strategic decisions, as well as other data determined as indicators for the implementation of the AP 23.

Concurrently, the NJRS envisages a mechanism to monitor the implementation of reform measures in the form of the NJRS Commission which is composed of fifteen members (and fifteen deputy members), representatives of all relevant institutions in charge of the implementation of the judicial reform: the Ministry of Justice, the Republic Public Prosecutor's Office, the Supreme Court of Cassation, the High Judicial Council, the State Prosecutorial Council, Committee on the Judiciary of the National Assembly of Serbia, a professional association of judges, a professional association of prosecutors, the Bar Association of Serbia, the Judicial Academy, a joint representative of law schools, the Ministry in charge of Finance, a joint representative of the Chamber of Bailiffs, Public Notaries and Mediators, the Serbian European Integration Office, and the Government Office for Cooperation with Civil Society.

The measures planned under the NJRS and AP 23 in the field of the judiciary shall be implemented within an institutional framework that encompasses: Constitutional Court, Ministry of Justice, High Judicial Council, State Prosecutorial Council, Judicial Academy, 184 courts (including 25 court units) and 88 public prosecutor's offices. As of January 1st 2016, the judicial system in the Republic of Serbia, encompasses 2793 judges, 58 public prosecutors and 621 deputy public prosecutors. Other vacancies remain for public prosecutors.

With regards the Ministry of Justice (MoJ), its competences relating to the justice sector include, *inter alia*, drafting criminal, economic and misdemeanour legislation; drafting regulations related to personal data protection; contractual relations; inheritance; court proceedings other than



bankruptcy proceedings; organisation and activities of judicial authorities; Bar examinations; professional specialisation of judicial office holders and public notaries; expert witnesses, court interpreters and translators; witness protection programmes; law practice and other judicial professions; the court guards; statistics and analysis of the performance of judicial authorities; international legal assistance; management of seized assets derived from criminal activity; representation of the Republic of Serbia before the European Court of Human Rights, creating conditions for realisation of projects within the purview of the Ministry, financed by pre-accession funds of the European Union, donations and other forms of development assistance; enforcement of criminal sanctions and others. Please refer to their website for more details on their competences -<http://www.mpravde.gov.rs/en/tekst/1151/jurisdictions-obligations-competences.php>.

The ICT Sector Council consists of representatives of the Ministry of Justice, the High Judicial Council, the State Prosecutorial Council, the Supreme Court of Cassation and Republic Public Prosecutor's Office, as well as the Public Attorney's Office. The Council was established during the second quarter of 2016 and deals with the overall ICT system sustainability, monitoring and control of all relevant matter such as planned budget for maintenance, planning and realisation of donor projects, as well as the development of an e-Justice system in order to achieve better efficiency and transparency of the Judiciary. It met twice in 2016. Decisions of the Council are not published.

1.3.5. Accession Negotiations with EU – Chapter 23 and reform implementation

Following an explanatory and bilateral screening of Chapter 23: Judiciary and Fundamental rights the EC prepared the Screening report containing recommendations for the commencement of the accession negotiations and the EU Council invited Serbia to submit an Action Plan for the negotiation of Chapter 23.

Chapter 23 (and Chapter 24) accession negotiations were formally opened in July 2016.

The Negotiation group for Chapter 23 is led by the MoJ which prepared the aforementioned AP23.

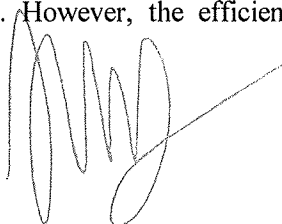
The process of **accession negotiations** with the EU in the context of Chapter 23 and other chapters in which the Ministry of Justice **has jurisdiction for coordination duties** (and some of its own legal competences), as well as implementation of certain aspects of other relevant strategic document issued a number of new tasks that require MoJ staff mastering the whole range of specific knowledge and skills that they have not so far been necessary.

These requirements appear in three areas:

1- Firstly, with regard to the responsibilities which **the** MoJ has related to **drafting of laws and by-laws** which is done through Working Groups (WGs) led by the ministry and comprising representatives of other line ministries and the also of courts and prosecutor offices, as required. The methodology for WG composition, rules and procedures are laid out in the Law on Ministries, Law on Government of Republic of Serbia, Rules of procedure of the Government of Republic of Serbia.

As outlined above, according to the AP 23, responsibility for monitoring the implementation of the AP23 is shared between several bodies, including the Council for implementation of AP23 (hereinafter: Council for AP 23) and the Negotiating Group amongst several others: the Ministry is also responsible for monitoring implementation and compliance with EU standards in the justice sector.

Implementation of the AP 23, the Action Plan for 2013-2018 NJRS and other relevant policy documents is shared between many institutions, from the MoJ to the High Judicial Council and State Prosecutorial Council, to the Judicial Academy and to courts and prosecutor office nationwide. Significantly intensified the normative activities of the Ministry in which it often works on numerous of normative acts at the same time. However, the efficiency of the working groups is largely



dependent on the ability of employees in the **Sector for Normative Affairs** to prepare inputs on which the members of the working groups base its work. Certain shortfalls pertain to the work of the legislative WGs, such as the methodology used, transparency of their work and the analysis undertaken for proper impact assessments of enforced legislation. Such preparatory work requires specific knowledge, methodology and skills on how to analyse acquis EU standards, best practices and comparative normative acts, as well as on how to access financial impact of drafted normative acts. Within the Department for Normative Affairs 8 civil servants have worked on the above mentioned activities producing 2 new laws and 5 amendments to laws in 2016.

2 - Secondly, the aforementioned strategic documents to the MoJ imposed an obligation of **implementation of a numerous activities**, particularly with regard to the Department for Judiciary which has 19 civil servants, the Department for European Integration and international projects, with 11 civil servants who have worked on the integration and project activities, as well as the Department for Financial Affairs, which has 20 civil servants and 4 administrative staff and the Section for e-justice, with 3 civil servants and 1 supportive staff dedicated to the activities related to the ICT . In accordance with the AP23 certain competences currently held by the MoJ related to budgetary planning and financial affairs amongst others, are foreseen to be transferred to the High Judicial Council and State Prosecutorial Council by 2018.

The measures to be undertaken by the MoJ, as a part of Chapter 23, refer to a series of amendments to the legislative framework, comprehensive legal analyses and wide-ranging data collection and introduction of new practice, such as preparation of track record tables, improving system of donor project planning and implementation, monitoring of judicial professions, etc. These additional obligations require close cooperation with numerous institutions, as well as additional expertise. Given the scope of these obligations and their different nature, there is a need for additional support to enable the MOJ to efficiently correspond to the given tasks.

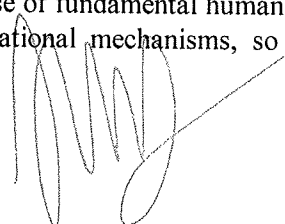
Concurrently, the MoJ is one of the central bodies in the process of the reform in the judiciary. In the context of implementation of the NJRS measures, a number of new obligations of the MoJ arises from the reform of the judiciary such as preparation of Constitutional amendments or establishment of free legal aid system placing a new burden on the existing capacities and requiring significantly different approach in its realisation.

3 - Thirdly, the NJRS and AP 23 envisage an important role for the MoJ in **monitoring the work of the new judicial professions** and enabling relevant legislative framework for their functioning.

This is also closely associated with the forthcoming establishment of a free legal aid system and the tasks of the MoJ in monitoring implementation. In addition, the MoJ gathers judicial statistics data within the regular CEPEJ evaluation scheme and cooperates with the CEPEJ on regular basis.

The NJRS and AP23 also recognise the importance of Information and Communication Technology (ICT) and infrastructural component of the judicial reform, whereby the Section for Project Planning at the MoJ is responsible for the future planning and implementation of ICT related projects in the field of judiciary until the ICT competences foreseen in the AP23 are transferred to the SPC and the HJC, that should be efficiently implemented by ICT department who provides expert support to the ICT Council. Adequate alignment of the premises of the judiciary with the relevant acquis standards should accompany this process. Certain progress in the reform process have created conditions for increased absorption potential of donor assistance, thus implying the need for an improved coordination of donor support in the justice sector in order to avoid gaps and overlaps and identify key measures in need of donor assistance. A variety of reform areas covered by the AP23 requires a certain level of coordination between (almost 50) institutions in charge of planning and implementation of project support for the realization of the AP 23 to avoid delays in AP 23 implementation.

In order to enable effective implementation of the reforms, it is of key importance to concurrently monitor the exercise of fundamental human rights and the rights of minorities, both domestically and in terms of international mechanisms, so that increased efficiency does not hinder the adequate



guarantees for human rights protection that are in place. With this regard significant support to MoJ staff is needed to strengthen their capacities and enable them effectively and continuously monitor and analyse exercise of fundamental rights as well as to propose corrective measures under MoJ jurisdiction.

Beside jurisdiction in proposing laws and adoption of bylaws, together with others, and in line with the division of competences, the MoJ is in charge of drafting and proposing strategic documents for the justice sector. The development and implementation of aforementioned normative acts require comprehensive assessment and monitoring of the fiscal impact, using different methodologies, as a completely new obligation prescribed by RS Government as well as by the EC, that should be transferred from project-funded consultants to MoJ staff. Such an obligation is more challenging in connection with the transfer of budgetary competences from MoJ to HJC and SPC, in accordance with NJRS and AP 23.

With an aim to **increase public confidence in the judiciary** and to bring the reform closer to the citizens, it is necessary to raise public awareness on the results achieved in the implementation of the reforms as well as on the process of EU integrations and its potential effects.

Additional support to strengthen MoJ capacities related to its supporting role for the work of the Commission for Implementation of the National Judicial Reform Strategy for the period 2013-2018 (hereinafter: Commission for NJRS). Beside additional pressure in terms of limited administrative and technical capacities of the MoJ, such support requires specific knowledge and skills regarding reporting, data collection, strategic planning and/or analysis etc.

Even more challenging is the MoJ role regarding **coordination of the negotiation process** under the Chapter 23 as well as in relations with the separation of duties and competencies between MoJ and Council for implementation of the Action Plan for Chapter 23. The MoJ has a pivotal role in terms of **coordination of Chapter 23** negotiations due to its executive competence in the fields covered by the AP 23. The Council is an advisory-expert working body of the Government in charge of monitoring of the implementation of activities envisaged in the AP 23.

Given that the Council for AP23 is a temporary expert working body of the Government, which does not have necessary administrative-technical capacities, the MoJ, as the Coordinator of the Negotiation group for Chapter 23, shall provide the necessary administrative-technical support to the Council for AP23.

The need for strengthening MoJ capacities in this part is caused by the specific role of MoJ as a coordinating body in Negotiating Group for Chapter 23 as well as by its supportive role in the process of the AP 23 monitoring, reporting and revision. These specific roles require coordination of almost 50 institutions, where all of them have designated from 1 to 4 focal points to actively participate in the process. Coordination includes processes of monitoring, reporting, data collection and evaluation, project planning, periodical assessment of reform status and AP23 revision. Important part of MoJ role is coordination of fiscal assessment in relation with AP23 implementation. With this regard, the MoJ needs support in finding sustainable solution to deal with such a challenging role, through improvement of its internal organisation and continuous training.

1.3.6. Legal framework related to international cooperation

In line with the Law on Ministries, all ministries within the scope of their jurisdiction, shall be engaged in international cooperation and work on its improvement and ensure alignment with the EU acquis, participate in the negotiation structure, prepare negotiating positions and conduct negotiations on accession to the European Union. The MoJ is responsible for the development of strategic documents in the field of the judiciary, as well as the relevant legislative framework for the functioning of the judiciary.



1.4. Current situation in the sector

The reform process requires additional capacities of the MoJ to correspond to the new challenges arising from its dual role within the negotiation and reform process. In accordance with its identified role, capacity building within MoJ is required for a more proactive role in the negotiation process and to increase ministerial competence and effectiveness. In order to address the later, improved analytical capacities of the Ministry is required for data collection methodology, monitoring and evaluation of results, as well as reporting on the implementation of the AP23 and NJRS. Particular departments within the MoJ related to implementation of the reforms in the forthcoming negotiation process need to be strengthened.

The MoJ and its organisation as outlined in its organigram need to be assessed in order to provide the best possible solution for the improvement of the institutional structure of the Ministry, which will more appropriately address judicial reform, negotiations on EU accession and identify solutions for a more sustainable solution for the Ministry's strengthening capacities.

The Sector for EU Integration and International Projects is the main department at the MoJ in charge of strategic planning and provision of administrative-technical support to the negotiation group for Chapter 23 and to the Commission for NJRS. The Coordinating Negotiation group for Chapter 23 and support to the Commission for NJRS, as well as implementation of NJRS and AP23 requires collecting, processing and analysis of vast amount of data and communication on a daily basis with a large number of institutions, bearing in mind that Negotiation group for Chapter 23 encompasses more than fifty governmental bodies stemming from all three branches of the state. Support is required to significantly improve the analytical and data gathering capacity of the department in order to enable the Sector for EU integration and International Projects to correspond to manifold increase in obligations.

Bearing in mind the fact that progress in the reform process created conditions for increased absorption potential of donor assistance, there is need for support to achieve full coordination of donor support in the justice sector so to avoid overlapping, enable identification of need for the donor assistance, and ensure proper and adequate implementation.

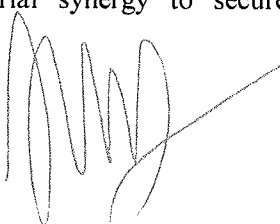
For the need of the envisaged update of AP23 support is necessary given that it requires a more analytical approach and in-depth knowledge of the current structural foundation of AP23. The update of relevant national strategies and action plans to align with AP23 also requires support to the same extent.

Considering the volume of activities in the AP23 and the NJRS related to the enhancement of Information and Communication Technology (ICT) systems in the judiciary and the importance of international projects in this field, support is required for an improved planning, monitoring and control of execution of ICT related projects, as well the related coordination between various donors and judicial institutions.

Within the Normative Affairs Department, support is needed for conducting analyses for the alignment of the relevant national legislation with the EU acquis and standards, recommendations for further conformity of legislation, table of concordance, comparative analysis, impact assessment of the proposed changes within the negotiation, all combined with a long-term capacity building focus.

Within the Department for the Judiciary, support is needed due to the new competences related to new judicial professions including public notaries, mediators and enforcement agents, monitoring the functioning of their respective areas, as well as anticipated monitoring of the free legal aid system.

With regard to the Department Material and Financial Affairs, there is a need to strengthen financial management capacities, particularly in terms of budget control and planed funds disbursement. Given the future rise of projects related to improvement of court infrastructure, there is a need to enhance capacity and inter-sectorial synergy to secure efficient planning, management and implementation.



1.5. Related programmes and other donor activities

In relation to capacities for the negotiation of Chapter 23, the project will build upon work performed as a part of the World Bank managed Multi-Donor Trust Fund (MDTF) for Justice Sector Support (JSS), which was established as a mechanism for coordinated allocation of foreign assistance. The contributing partners have been Denmark, the (Delegation of the) EU, the Netherlands, Norway, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. Among other components, it has aimed at strengthening capacities of the justice sector.

As a part of MDTF-JSS activities, a team of consultants (Reform Accession Facilitation Unit – RAFU) has provided support to accession and reform implementation processes and contributes to the MoJ in the overall reform process of the judiciary i.e. development of the National Judicial Reform Strategy and its accompanying Action Plan. As a part of the support to the MoJ, RAFU provides comparative analyses, supports drafting of normative acts and regulatory framework on a regular basis. Moreover, RAFU has been engaged in an ongoing capacity building of MoJ and other relevant staff in the judiciary through on-the-job training, knowledge and skills transfer, aimed at gradual transition of responsibilities to civil service staff and will end by the end of 2017. Within the previous period, RAFU worked on strengthening the capacities of MoJ staff in, among others, the field of strategic planning, alignment with EU law and standards and the process of EU integration. At the same time, RAFU consultants have provided important support to the representatives of relevant stakeholders in justice sector in the process of drafting of the AP23 as well as drafting numerous national strategic documents and laws. They also provided initial training on methodology of monitoring and reporting on the above-mentioned strategic documents. Results of this project represent a good base for further, advanced training of civil servants aimed at achieving their full preparation to take over all new responsibilities in the process of implementation, monitoring and revision of strategic documents related to the negotiation process, Chapter 23, as a way to build sustainable and efficient institutional framework.

In terms of the ad-hoc support to reform areas of Chapter 23, complementarity should be ensured with GIZ Germany as it has provided comprehensive support to Serbia over many years through the Legal and Judicial Reform Programme (LJRP). More specifically, the objectives of the LJRP has been to help establish a functional, efficient and accountable judiciary to provide a modern legislative process as well as a sound and reliable legislative and institutional framework that approximates to the EU Acquis. The LJRP provided support to certain competencies of the MoJ related to the judiciary, notaries, the introduction of private enforcement system, EU accession (policy development, Chapter 23/24, measures of Anti-Corruption), amongst other areas. Serbia's EU integration process has been all the time a main orientation and a wide context of all GIZ LJRP components. The harmonisation and transposition of the EU *acquis* into the Serbian legal system has always been of a special importance. Since the EU membership negotiations have been prepared and opened, GIZ LJRP has intensified its support to strengthening institutional, organisational and administrative capacities of the MoJ and other state institutions taking part in Negotiation Group for Ch. 23 (NG23), with the strong involvement of regional expertise and fresh negotiation experience. As agreed with the Ministry during the 2014 the LJRP provided adequate expert consultancy, comprehensive analysis of strategic EU documents, exchange of regional know-how about negotiations, increasing individual capacities of participants in Chapter 23 through trainings on EU related topics, workshops for increasing their skills for drafting negotiating documents, public discussions, conferences, seminars, publications and by other means. That has also included participation of all main stakeholders in negotiations with the EU, such as academic public, state institutions, media, etc. All GIZ activities with this regard are expired in mid-2016. Building of institutional capacities and raising public awareness on Chapter 23 during the process of drafting of the AP23, realised through LJRP had an important influence on the quality, transparency and inclusiveness of negotiation process. This kind of approach has become even more important since Ch. 23 was opened and AP 23 implementation started.

The EU/IPA funded project "Policy and Legal Advice Centre (PLAC)" which was completed in 2016 supported Serbia's preparation for EU accession by improving policy and legislation processes.

