|  |  |
| --- | --- |
| Contract No. ► | NA |
| Project ID / Sector ► | 2246-HFII: Supporting enhanced access to higher quality Free Legal Aid (FLA) services in North Macedonia |
| Council of Europe contact point ► | Irena Cuculoska Jakimovska, Senior Project Officer  irena.cuculoska-jakimovska@coe.int  Tel: 00389 70 900 236 |

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**ACT Of ENGAGEMENT**

**(Competitive bidding procedure / One-off contract)**

**This Act of Engagement lays down the terms and conditions of the contract between the Provider, as described below, and the Council of Europe[[1]](#footnote-2) for the provision of consultancy services on data analysis and drafting of a Report regarding the nationwide survey on the legal needs and paths to justice of the people living in North Macedonia in the framework of the Action on “Supporting enhanced access to higher quality free legal aid (FLA) services in the Republic of North Macedonia”**

The signature of this Act of Engagement by the tenderer alone shall not constitute or imply any sort of contractual commitment on the part of the Council of Europe. This Act shall become contractually binding only **upon signature by a Council of Europe authorised staff member** (see Section B).

Tenderers shall:

1. Fill in the below sections **Contact details of the Provider** and **Bank details**. Ensure that the “Name” of the Provider and the “Account holder” are the same.

2. Fill in the column “Fees” of the table of fees (See Section A);

3. Sign the Act of Engagement (See Section B) and send a signed and scanned copy to the Council (See Contact person details above).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Provider information** | Legal personality[[2]](#footnote-3) ► | Natural person | Legal person | | | Consortium |
| Name and address  ► |  | | | | |
| Representative  ► |  | | | | |
| Contact person  ► |  | | | | |
| VAT n° (if any)  ► |  | | | | |
| Country and registration n° (if any)  ► |  | | | | |
| Email (Contact person)  ► |  | | | | |
| Phone number (Contact person)  ► |  | | | | |
| **Bank details** | Account holder  ► |  | | | | |
| IBAN n°  (if available)  ► |  | | Full bank account n° (for non-IBAN countries only) ► |  | |
| Bank name  and Branch  ► |  | | BIC/SWIFT Code  ► |  | |
|  | Bank Address  ► |  | | Account currency ► |  | |

1. **Terms of reference / Table of fees**

The Council of Europe is currently implementing and until 31/12/2022 will implement a Project on “Supporting enhanced access to higher quality free legal aid (FLA) services in the Republic of North Macedonia”. Under this project a nationwide survey on the legal needs and paths to justice of the people living in North Macedonia it is currently being conducted (as described in Appendix 1). In that context, the Council of Europe is looking for a Provider of consultancy services on data analysis and contribution to the drafting of a detailed Report regarding the nationwide survey on the legal needs and paths to justice of the people living in North Macedonia.

Prices indicated below are final and not subject to review, throughout the duration of the contract.

Prices are indicated in Euros without VAT. For the VAT regime to be mentioned on the invoice(s), please refer to Article 4.2 of the Legal Conditions (See Section C. below).

**For the VAT regime to be mentioned on the invoice, please refer to Section B below.**

The Provider shall indicate its proposed fee(s) in the box(es) below.

|  |  |  |  |
| --- | --- | --- | --- |
| **Deliverables ▼** | **Deadline for**  **delivery ▼** | **Fees**  **▼** | **Exclusion level**  ▼ |
| 1. **Contribution to the process of conducting the** **legal needs survey in North Macedonia**   The consultancy entails c**ontinuous support and advice to the local consultant and the project team** on issues related to the overview of the process of conducting of Legal Needs Assessment in North Macedonia.  The legal needs assessment is crucial tool that provides data and basis for more efficient planning and provision of legal aid and enables evaluation of policies in the area of access to justice. In order to ensure relevance and synergy with government policies, this process aims to contribute in realization of one of the commitments of North Macedonia stated in the Open Government Partnership National Action Plan 2018-2020, which is conducting a National Survey of Citizen’s Legal Needs in order to develop a plan or strategy for legal strengthening in accordance with previously obtained findings.  The main objective of the LNA is to provide valuable evidence-based data to inform debate and policy developments concerning administering and providing legal aid. The legal needs survey should examine the nature of legal problems, the pathways to their resolution and the demographic groups that are particularly vulnerable to experiencing legal problems. More specifically, the study should assess:  1. the prevalence of legal problems;  2. the nature of legal problems;  3. the strategies used in response to legal problems;  4. the advice received for legal problems;  5. the finalisation of legal problems;  6. the outcome of legal problems;  7. the factors that may influence each of the above.  In relation to aim 7, the influence of the following factors should be examined by demographic characteristics (e.g. gender, age, ethnicity, disability status, education, employment status, family status, housing type, main income), characteristics of legal problems (e.g. type, recency and severity of problems).  As proposed in the paper “Overview of approaches and modalities for designing and conducting legal needs assessment in North Macedonia” already developed under the Action (Appendix 1), the legal needs assessment is currently being conducted in the form of legal needs survey following the paths to justice methodology (described in the paper). This method will enable comparability of the results with the 2012 study (already conducted in North Macedonia) which is very important in order to assess the impact of policies in the area of access to justice. Furthermore, it is the most utilized method for assessing legal needs with significant literature and impact on policymaking processes and it will enable comparability with other jurisdiction to certain extent.  The consultant will work under supervision of CoE project team. He will closely co-operate, share information, provide relevant inputs and communicate via email, phone and video conferences, as needed, with the local consultant and with the Council of Europe staff, with the service provider (engaged for conducting the Legal Needs Survey) and if needed with project stakeholders and other consultants engaged under this project. | 01/10/2022 |  |  |
| 1. **Contribution to data analysis and preparation of the final Report**   The consultant will provide support to the local consultant by providing contribution to data analysis, review of the draft report and providing input where necessary on the interpretation of data and on the findings and conclusions of the legal needs survey. The consultancy also entails contribution to the finalisation of the report following the comments from the Council of Europe.  The consultant will attend an event for presentation of the final report in front of the national stakeholders, if needed.  The consultant will work under supervision of CoE project team. He will closely co-operate, share information, provide relevant inputs and communicate via email, phone and video conferences, as needed, with the local consultant and with the Council of Europe staff as well as, as needed, with the service provider (engaged for conducting the Legal Needs Survey) with project stakeholders and other consultants engaged under this project. | 15/10/2022 |  |  |
| TOTAL ► | |  | **10 000 Euros** |

**B. Declaration of Agreement and Signature**

I, the undersigned, acting on my own behalf or as a representative of the Provider indicated below, hereby:

* Declare having the authority to represent the Provider;
* Declare that the information provided to the Council under this procedure is complete, correct and truthful.
* Acknowledge, in signing this document, that I have been notified that if any of the statements made or information provided prove to be false, the Council reserves the right to exclude the tender concerned from the procedure or to terminate any existing contractual relations related to the latter;
* Express consent to any audit or verification that the Council may initiate by any means on the information provided under this procedure;
* Declare that neither I or the Provider I represent is in any of the situations listed in the exclusion criteria as reproduced in the Tender File;
* Declare that neither I, nor the Provider I represent, are in a situation of a conflict of interests or a potential conflict of interest in relation to this procedure. I have been notified and understand that a conflict of interests may arise, in particular, from economic interests, political or national affinities, emotional or family ties or any other type of shared relationship or interest;
* Undertake to update the Council with significant information changes within a reasonable time. Significant information changes include, but are not limited to change of legal status, ownership, name and address, loss of licence of registration, filing bankruptcy, suspension or debarment by any national or local governmental agency or assimilated, inclusion in the lists of persons or entities subject to restrictive measures applied by the European Union (available at [www.sanctionsmap.eu](http://www.sanctionsmap.eu));
* Accept without any derogation all the terms of the Legal Conditions as reproduced in the present document and understand that its signature **shall constitute signature of the contract** with the Council subject to the selection of the tender by the Council and the signature of this Act by a representative of the Council.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| The Provider shall **fill in this part**, **print the document**, **sign in the last box** below and **send a scan copy of the document** to the email address indicated on the 1st page. | | | | | |
|  | | | | | |
|  | **For the Provider ▼** | |  | **For the Council of Europe ▼**  On behalf of the Secretary General of the Council of Europe | |
| Signature | Signatory (Name, Function and Entity) ► |  |  | Signatory (Name, Function and Entity) ► |  |
| Provider ► |  |  | % of advance payment accepted ► |  |
| Place of signature ► | In |  | Place of signature ► | In |
| Date of signature ► | \_\_\_ / \_\_\_ / \_\_\_\_\_\_ |  | Date of signature ► | \_\_\_ / \_\_\_ / \_\_\_\_\_\_ |
| Signature  ► |  |  | Signature► |  |
|  |  |  |  | PO Number ► |  |
|  |  |  |  | FIMS Number ► |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Invoicing** (This part is reserved for the Council of Europe) | | | |
| **Invoicing Address** ► | | | **Council of Europe Program Office in Skopje, Soravia Center, Filip Vtori Makedonski br. 3 Skopje, 1000** |
| x | The invoice shall indicate prices ***net fixed amount.*** | | |
| ☐ | The invoice shall be established ***excluding tax.*** | | |
| ☐ | The invoice shall be established ***excluding tax***, the following shall appear on the pro-forma invoice and on the final invoice: According to Article 2 b) of Directive 2001/115/EC: “Intra-Community service/sale to an exempted organisation: Articles 143 and 151 of Directive 2006/112/EC."  The Council of Europe shall provide a VAT exemption certificate to the service provider/supplier with each order. The exemption certificate should be retained by the Provider/Supplier and presented to the relevant tax authorities to justify tax-free invoicing. In case the Council of Europe is not in a position to provide the said certificate, the invoice shall be established including all taxes. | | |
| ☐ | The invoice shall *be established* ***including all taxes***. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount ‘including all taxes’.  For services physically carried out in France, providers who do not have a French VAT number must register with the French Fiscal Authorities: Directorate for non-resident tax / [sie.entreprises-etrangeres@dgfip.finances.gouv.fr](mailto:sie.entreprises-etrangeres@dgfip.finances.gouv.fr) / 10, rue du Centre / 93465 Noisy-le-Grand Cedex / + 33 (0)1 57 33 85 00 | | |
| ☐ | The invoice shall be established ***including all taxes*** (French VAT at the applicable rate). Providers/suppliers are required to register for VAT purposes at the VAT Mini One Stop Shop (VAT MOSS) of their choice. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount ‘including all taxes’. The invoice shall also stipulate the following statement: “French VAT collected by the Provider and paid to the Mini One-Stop shop in [Address/Country] under the MOSS identification number [No. XX]”. | | |
| Comments | |  | |
| The Provider shall invoice the Council as indicated above. For any question, please contact the contact point of this contract. For aspects other than VAT, the invoice shall conform to the applicable legislation. Unless agreed otherwise between the parties, the invoice shall be in the currency specified in the table of fees (See Section A). | | | |

**C. Legal Conditions**

**Article 1 – General provisions**

* 1. The Provider undertakes, on the conditions and in the manner laid down by common agreement hereafter excluding any accessory verbal agreement, to provide the list of Deliverables reproduced in the Terms of reference (see Section A above) related to the present contract and in the tender submitted by the Provider.
  2. The present contract is composed, by order of precedence, of:   
     a) the Act of Engagement, in its entirety (cover page, Sections A and B and the present Legal Conditions);

b) the Terms of reference; and

c) the tender submitted by the provider.

* 1. Any general purchasing terms and conditions of the Provider shall never prevail over these legal conditions. Any provision proffered by the Provider in its documents (general conditions or correspondence) conflicting with the clauses of these legal conditions shall be deemed void, except for any clauses which may be more favourable to the Council.
  2. For the purposes of this Contract:   
     a) “Contract” shall refer to the documents described in 1.2, above;   
     b) “Council” shall mean the Council of Europe;   
     c) “Deliverables” shall mean the services or goods as described in the Terms of reference;   
     d) “Parties” shall mean the Council and the Provider;   
     e) “Provider” shall mean the legal or physical person selected by the Council for the provision of the Deliverables. This person may equally be referred to as the “Service Provider” or the “Consultant”.

**Article 2 – Duration**

The contract is concluded until complete execution of the obligations of the parties and takes effect as from the date of its signature by both parties. The services shall be executed in accordance with the timeframe indicated in the Terms of reference or, by default, as agreed in any prior correspondence.

**Article 3 – Obligations of the Provider**

**3.1 General obligations**

1. The Provider bears sole responsibility for all the decisions made and the human, technical, logistic and material resources used in the context of the Contract in order to provide the Deliverables, with due respect for the Council of Europe’s needs and constraints, as contractually defined.
2. The Provider recognises that it is subject to a general obligation to provide advice, including, but not limited to, an obligation to provide any relevant information or recommendations to the Council. In this context, the Provider shall supply to the Council all the advice, warnings and recommendations necessary particularly in terms of quality of Deliverables, security and compliance with professional standards. The Provider also undertakes to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract.

**3.2 Intellectual services**

1. The provisions of Articles 3.2.2 to 3.2.10 shall apply insofar as the contract concerns the provision of intellectual services.
2. Unless agreed otherwise by the Parties, any written documents prepared by the Provider under the contract shall be written in English and produced on a word processing file. In case the Parties agree that a written document shall be prepared in a language other than English or French, a summary in English or French shall be included in the said document.
3. Unless agreed otherwise by the Parties, all written documents of more than 1,500 words shall be preceded or accompanied by a text summarising the subject and main conclusions and shall not, unless specifically required, exceed 5,000 words.
4. The Provider guarantees that the Deliverables conform to the highest academic standards.
5. The Provider cedes irrevocably and exclusively to the Council throughout the entire world and for the entire period of copyright protection, all rights on the Deliverable(s) produced as a result of the execution of the present contract. Such rights shall include in particular the right to use, reproduce, represent, publish, adapt, translate and distribute – or to have used, reproduced, represented, published, adapted, translated and distributed - in any country, in any language, in any form and on any kind of support, including on a CD-ROM or the Internet, the said Deliverables, or any part thereof.
6. The Council reserves the right to exercise the above-mentioned rights for any purpose falling within its activities.
7. The Provider guarantees that use by the Council of the Deliverable(s) produced as a result of the execution of the present contract will not infringe the rights of third parties. However, should the Council incur liability as the result of any such infringement; the Provider will compensate it in full for any damage it may suffer in consequence.
8. Notwithstanding the provision in Article 3.2.5 above, the Council may, on prior application by the Provider, authorise the Provider to use the Deliverable(s) referred to above. When giving the Provider such authority, the Council will inform the Provider of any conditions to which such use may be subject.
9. Any intellectual property rights of the Provider over methods, knowledge and information which are in existence at the date of the conclusion of the Contract and which are comprised in or necessary for or arising from the performance of the Contract shall remain the property of the Provider. However, in consideration of the fees payable pursuant to the Contract the Provider hereby grants the Council a non-exclusive and free licence for the entire world and for the entire period of protection by the applicable intellectual property rights law for the use of such methods, knowledge and information insofar as they are an integral part of the Deliverable(s).
10. If the Deliverable(s) result(s) in the provision of a training session, and provided the training materials are not the property of the Council, the Provider shall grant the participants in the training a non-exclusive licence for the entire world and for the entire period of protection by the applicable intellectual property rights law for their own professional use of those training materials.

**3.3 Health and social insurance of the Provider or its employees**

The Provider shall undertake all necessary measures to arrange for health and social insurance during the entire contract. The Provider acknowledges and accepts in this regard that the Council shall not assume any responsibility for any health and social risks concerning illness, maternity or accident which might occur during the performance of work under the contract.

**3.4 Fiscal obligations**

The Provider undertakes to inform the Council about any change of its status with regard to VAT, to observe all applicable rules and to comply with its fiscal obligations in:

a) submitting a request for payment, or an invoice, to the Council in conformity with the applicable legislation;

b) declaring all fees received from the Council for tax purposes as required in his/her/its country of fiscal residence.

**3.5 Loyalty and confidentiality**

1. In the performance of the present contract, the Provider will not seek or accept instructions from any government or any authority external to the Council. The Provider undertakes to comply with the Council’s directives for the completion of the Deliverables and to refrain from any word or act that may be construed as committing the Council.
2. The Provider shall observe the utmost discretion in all matters concerning the contract, and particularly any matters or data that have been or are to be recorded that come to the Provider’s attention in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Provider shall refrain at all times from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Provider’s notice as a result of dealings with the Council. Nor shall the Provider seek to gain private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall lift these obligations.

**3.6 Disclosure of the terms of the contract**

1. The Provider is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Provider authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/projects, the nature and purpose of the contract/projects, name and locality of the Provider and amount of the contract/project.
2. Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Provider.

**3.7 Use of the Council of Europe’s name**

The Provider shall not use the Council’s name, flag or logo without prior authorisation of the Council.

**3.8 Data Protection**

1. Without prejudice to the other provisions of this contract, the Parties undertake, in the execution of this contract, to comply at all times with the legislation applicable to each of them concerning the processing of personal data.
2. Where the Provider, pursuant to its obligations under this contract, processes personal data on behalf of the Council, it shall:
3. Process personal data only in accordance with written instructions from the Council;
4. Process personal data only to the extent and in such manner as is necessary for the execution of the contract, or as otherwise notified by the Council;
5. Implement appropriate technological measures to protect personal data against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction, or damage while having regard to the nature of the personal data which is to be protected;
6. Take reasonable steps to ensure the reliability of the Provider’s employees having access to the personal data and to ensure that they have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and thus agree to comply with the data protection obligations set out in this contract;
7. Obtain written consent from the Council prior to any transfer of possession or responsibility for the personal data to any subcontractors. If the Council chooses to authorise subcontracting, the same data protection obligations as set out in this contract shall be imposed on the subcontractor by way of a contract. The Provider shall remain fully liable to the Council for the performance of that subcontractor’s obligations.
8. Notify the Council within five working days if it receives:   
   a. a request from a data subject to have access (including rectification, deletion and objection) to that person’s personal data; or   
   b. a complaint or request related to the Council’s obligations to comply with the data protection requirements.
9. Provide the Council with full assistance in relation to any such request or complaint and assist the Council to fulfil its obligation to respond to the requests for rectification, deletion and objection, to provide information on data processing to data subjects and to notify personal data breaches;
10. Allow for and contribute to checks and audits, including inspections, conducted or mandated by the Council or by any authorised third auditing person. The Provider shall immediately inform the Council of any audit not conducted or mandated by the Council;
11. Not process nor transfer personal data outside the jurisdiction of a Council of Europe Member State without the prior authorisation of the Council and provided that an adequate level of protection is guaranteed by law or by ad hoc or approved standardised safeguards (such as binding corporate rules) in the jurisdiction of the recipient;
12. Make available to the Council all information necessary to demonstrate compliance with the obligations under the contract in connection with the processing of personal data and the rights of data subjects;
13. Upon the Council’s request, delete or return to the Council all personal data and any existing copies, unless the applicable law requires storage of the personal data.

**3.9 Parallel Activities**

Where the Provider is a natural person who is employed in parallel to this Contract, they hereby confirm that they:

a) have been granted approval from their employer to perform paid services for the Council under this Contract, and/or

b) have been granted leave during the performance of their obligations under this Contract.

**3.10 Other obligations**

1. In the performance of the present contract, the Provider undertakes to comply with the applicable principles, rules and values of the Council.
2. The Staff Regulations and the rules concerning temporary staff members shall not apply to the Provider.
3. Nothing in this contract may be construed as conferring on the Provider the capacity of a Council of Europe staff member or employee.

**Article 4 – Fees, expenses and mode of payment**

**4.1 Fees**

1. In return for the fulfilment by the Provider of its obligations under the contract, the Council undertakes to pay the Provider the fees as indicated in their offer, in the currency specified in the Table of fees.
2. Amounts are final and not subject to review.

**4.2 VAT**

1. Should the Provider not be subject to VAT, the amount invoiced shall be net fixed amount. Should the Provider be subject to VAT, the amount shall be invoiced as indicated in Articles 4.2.2 to 4.2.5.
2. Should the deliverables be taxable in France, the amount invoiced shall be VAT inclusive.
3. Should the deliverables be taxable in another EU country, and unless otherwise agreed between the Parties, the Council will provide the Provider with an exemption certificate prior to the signature of the contract. The exemption certificate sent by the Council of Europe should be retained by the Provider and presented to the relevant tax authorities to justify tax-free invoicing. In accordance with Article 2 b) of Council Directive 2001/115/EC, the following should be stated in the invoice: “*Intra-Community sale/service to an exempted organisation: Articles 143 and 151 of Council Directive 2006/112/EC*” and should indicate the final total amount excluding VAT. In case the CoE will not be in a position to provide the said certificate, the Council will pay the invoice with VAT included.
4. Should the deliverables be taxable in a non-EU country, the amount invoiced will not include VAT if the local (national) legislation allows for it, or if the Council of Europe enjoys tax exemption through other means in the country concerned. Otherwise, it shall include VAT.
5. For the provision of “online services”, should the Provider be established either in an EU country (other than France) or in a non-EU country, the invoiced amount shall include French VAT at the applicable rate. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount ‘all tax included’. The invoice shall also stipulate the following statement: “*Intra-community sale/service: French VAT collected by the Provider and paid to the Mini One-Stop shop in [Address/Country]*”.
   1. **Invoicing and payment**
6. Upon acceptance of the deliverable[s] by the Council, the Provider shall submit an invoice or a request for payment in triplicate and in the currency specified in the Table of fees, in conformity with the applicable legislation.
7. Before accepting the Deliverable(s), the Council reserves the right to ask the Provider to submit any other document or information that may serve the purpose of establishing that the Contract has been duly executed.
8. In the case of event organisation, the Provider shall in any case submit any document that proves that the event took place, including but not limited to an attendance sheet broken down into half days specifying the location, date(s) and time(s) of the event(s) or activity(ies), to be individually signed by each participant and the Provider.
9. The payment for the Deliverables to be paid by the Council shall be made within 60 calendar days of submission of the invoice described in Article 4.3.1, subject to the submission of the Deliverable(s) described in the Terms of reference and its/their acceptance by the Council.
10. In cases where an advance payment is foreseen, it shall be paid within 60 calendar days upon signature of the contract.

**4.4 Other expenses**

1. In the event of the Provider being required to travel for the purposes of the contract, and provided the Terms of reference do not stipulate that the fees already include travel and subsistence expenses, the Council undertakes, subject to its prior agreement, to reimburse travel and subsistence allowances in compliance with the Council’s applicable Rules.[[3]](#footnote-4)
2. Travel expenses referred to under 4.4.1 will be reimbursed on the basis of the rail fare (first class) or air fare (tourist class) upon presentation of an invoice on the letterhead of the relevant vouchers. Subsistence expenses (including travel expenses within the locality visited) will be reimbursed at the applicable daily rate.
3. In the event of the Provider being required to travel for the purposes of the contract, the duration of the Provider’s travel and stays will be covered by an insurance policy with the insurers CHARTIS (Policy No. 2.004.761). A telephone helpline is available in case of emergency (+ 32 (0)3 253 69 16). The said insurance will cover specific risks related to travel and stay of the Provider (including medical costs related to unforeseen illness or accident, repatriation, death, cancellation of journey or flight, theft or loss of personal possessions). The insurance policy does not cover persons over 75 years of age.

**Article 5 - Breach of contract**

1. In the event that:

a) the Provider does not satisfy the conditions laid down in this contract or those resulting from any modifications duly accepted in writing by both parties, in accordance with the provisions of Article 6 below; or

b) the Deliverables provided as referred to under Article 1.1 do not reach a satisfactory level; or

c) the Provider is in any of the situations listed in Article 11.2,

the Council may consider there to have been a breach of contract and may consequently refuse to pay to the Provider the amounts referred to in Article 4.1 and Article 4.4 above.

1. In the cases described in paragraph 5.1 above, the Council reserves further, at any moment and further to prior notification to the Provider, the right to terminate the contract in all or in part. In case of termination, the Council shall pay only the amount corresponding to the deliverables actually and satisfactorily provided at the time of termination of the contract and shall request reimbursement of the sums already paid for Deliverables not provided. In case of partial termination, the obligations of the parties shall endure for all deliverables which are not subject of the notification of termination.
2. The outstanding sums shall be paid to the Council’s bank account within 60 calendar days from the notification in writing by the Council to the Provider regarding the outstanding sums to be paid.

**Article 6 - Modifications**

1. The provisions of this contract cannot be modified without the written agreement of both parties. This agreement may take the form of an exchange of emails provided it is done using the contact details specified in Article 8.
2. Any modification shall not affect elements of the contract which may distort the initial conditions of the tendering procedure or give rise to unequal treatment between the tenderers.
3. This contract may not be transferred, in full or in part, for money or free of charge, without the Council’s prior authorisation in writing.
4. The Provider may not subcontract all or part of the Deliverables without the written authorisation of the Council. If authorised to subcontract by the Council, the Provider shall ensure compliance with all contractual conditions by all authorised subcontractors. The Provider shall remain fully liable to the Council for the performance of that subcontractor’s obligations.

**Article 7 - Case of force majeure**

1. In the event of force majeure, the parties shall be released from the application of this contract without any financial compensation. Force majeure is defined as including the following: major weather problems, earthquake, strikes affecting air travel, attacks, a state of war, health risks or events that would require the Council or the Provider to cancel the contract.
2. In the event of such circumstances each party shall be required to notify the other party accordingly in writing, within a period of 7 calendar days.

**Article 8 - Communication between the parties**

1. The Contact point within the Council of Europe is indicated on the cover page of the Act of Engagement (See page 1 above).
2. The Provider can be reached through the means indicated in the Act of Engagement (see page 1 above).
3. Any communication is deemed to have been made when it is received by the receiving party, unless the Contract refers to the date when the communication was sent.
4. Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in paragraphs 1 and 2 above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in paragraphs 1 and 2 above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline, provided the communication is dispatched by another means of communication without further delay.
5. Mail sent to the Council using the postal services is considered to have been received by the Council on the date on which it is registered by the department identified in paragraph 1 above.
6. Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

**Article 9 –Acceptance**

The provision of Deliverables referred to in this contract shall be the subject of a written acceptance procedure. If acceptance is refused, the Council shall inform the Provider accordingly, giving reasons, and may set new modalities for the provision of the Deliverables. If acceptance is refused again, the Council may terminate the Contract in whole or in part without previous notice and without paying any financial compensation.

**Article 10 – Consortium**

1. The Providers have full responsibility for carrying out and complying with the terms of the contract.
2. The Providers are jointly and severally liable. If a Provider fails to implement its part of the contract, the other Providers become responsible for the carrying out of the Deliverables, unless the Council expressly relieves them of this obligation.
3. In case of breach of contract, where applicable, the Council will claim back the amounts paid but that were not due under the contract. The coordinator of the consortium is fully liable for repaying the debts of the consortium; even if it has not been the final recipient of those amounts.
4. The internal roles and responsibilities of the Providers are divided as follows:
   * 1. The Providers must designate a coordinator.
     2. Each Provider must:
5. inform the coordinator immediately of any events or circumstances likely to affect significantly or delay the performance of the contract, change in legal status or technical, organisational or ownership situation, circumstances affecting the award of the contract or compliance with the requirements of the contract;
6. submit to the coordinator in good time:   
   - any other documents or information required by the Council under the contract, unless the contract requires the Provider to submit this information directly;   
   - any information requested by the coordinator in order to verify the state of performance of the Deliverables under the contract, the proper implementation of the contract and compliance with the other obligations under the contract.
7. give the other Providers access to any pre-existing industrial and intellectual property rights needed for the performance of the contract and compliance with the obligations under the Agreement.
   * 1. The coordinator must:
8. monitor that the Deliverables are carried out timely and properly, in accordance with the terms of the contract;
9. act as the intermediary for all communications between the Providers and the Council (in particular, providing the Council with the information described in Article 10.4.2(ii) immediately), unless the agreed otherwise by the Parties;
10. request and review any documents or information required by the Council and verify their completeness and correctness before passing them on to the Council;
11. before starting performance of the contract, submit this list of pre-existing rights (Article 10.4.2(iii)) to the Council.
12. submit the Deliverables to the Council in accordance with the timing and terms of the contract;
13. Payments shall be made by the Council to the coordinator. Payments to the coordinator shall discharge the Council from its payment obligation. The coordinator must ensure that the distribution of the payments between the Providers are made without unjustified delay.

The coordinator may not subcontract the above-mentioned tasks.

1. The Providers must have internal arrangements regarding their operation and co-ordination to ensure that the action is implemented properly. These internal arrangements must be set out in a written ‘consortium agreement’ between the beneficiaries, which may cover:   
   - internal organisation of the consortium;   
   - distribution of the Council payment(s);   
   - additional rules on rights and obligations related to pre-existing rights and results (including intellectual and industrial property rights), specifying the owner and persons that have a right of use;   
   - settlement of internal disputes;   
   - liability, indemnification and confidentiality arrangements between the Providers.

The consortium agreement must not contain any provision contrary to the contract.

**Article 11 – Changes in the Provider’s situation or standing**

11.1. The Provider shall inform the Council without delay of any changes in their address or legal domicile or in the address or legal domicile of the person who may represent them.

* 1. The Provider shall also inform the Council without delay:

1. if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
2. where the Provider is a consortium or similar entity, if there is a change in membership or partnership.
3. if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
4. if they are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
5. if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
6. if they do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of legal domicile;
7. if they are or are likely to be in a situation of conflict of interests;
8. if they are or if their owner(s) or executive officer(s), in the case of legal persons, are included in the lists of persons or entities subject to restrictive measures applied by the European Union (available at [www.sanctionsmap.eu](http://www.sanctionsmap.eu)).

**Article 12 - Disputes**

12.1. Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.

12.2. The Arbitration Board shall be composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal de Grande Instance of Strasbourg shall make the appointment.

12.3. Alternatively, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal de Grande Instance of Strasbourg.

12.4. The Board referred to in paragraph 2 of this Article or, where appropriate, the arbitrator referred to in paragraph 3 of this Article, shall determine the procedure to be followed.

* 1. If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide ex aequo et bono having regard to the general principles of law and to commercial usage.
  2. The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

**Article 13 - Addresses and bank details of the parties**

The bank details of the Provider are indicated in the Act of Engagement. The bank details of the Council of Europe are the following:

Bank address: F-67075 Strasbourg Cedex, France

Bank name: Société Générale Strasbourg

Code IBAN: FR76 30003 02360 001500 1718672

SWIFT Code: SOGEFRPP

**APPENDIX 1**



**Legal needs assessments – Approaches and modalities**

Overview of approaches and modalities for designing and conducting legal needs assessment in North Macedonia

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April, 2020

# Introductory remarks

This document assesses the need for introduction and implementation of a legal needs assessment in North Macedonia and evaluates the modalities and methodologies for conducting such assessment. The legal needs assessment is crucial tool that provides data and basis for more efficient planning and provision of legal aid and enables evaluation of policies in the area of access to justice. The objective of this document is to propose concrete model for conducting such assessment, considering the national context as well as best practices on global level.

This document is prepared upon request by the Council of Europe within the auspices of the project *Supporting enhanced access to higher quality free legal aid services in North Macedonia (2246 – HFII)*. The methodology used included desk research, literature review and communication with relevant stakeholders. During the preparation of the document the most relevant and recent practices of legal needs assessments in countries where they are accustomed, were analyzed and consulted.

In order to ensure relevance and synergy with government policies, the document aims to contribute in realization of one of the commitments of North Macedonia stated in the *[Open Government Partnership National Action Plan 2018-2020](https://www.opengovpartnership.org/wp-content/uploads/2018/09/Macedonia_Action-Plan_2018-2020_EN.pdf)****[[4]](#footnote-5)***.The plan foresees an obligation of the Ministry of Justice, after adoption of the new Law on Free Legal Aid, to conduct a *National Survey of Citizen’s Legal Needs* in order to develop a plan or strategy for legal strengthening in accordance with previously obtained findings. The document proposes a methodological framework for conducting such survey.

The document first provides a definition of key concepts and comparative overview of the methods used to assess legal needs in other countries. Following the introduction of the concept, a description of the current state of affairs with regard to the conduct of legal needs assessment in North Macedonia is provided. After that the document assesses the need, availability of data, challenges and potential benefits linked to the possible introduction of regular needs assessment in the framework of FLA provision. On the basis of the analysis the document provides recommendations on approach, methodology and actors to be considered for introducing such regular needs assessment with an action plan.

# Assessing legal needs in comparative context

## 2.1 Legal need v. access to justice – Difference in assessment approaches

Correct definition and understanding of the term “legal needs” is the first step in identification of approaches and means for its assessment. According to a guide[[5]](#footnote-6) published by the OECD[[6]](#footnote-7) and OSF[[7]](#footnote-8) legal need arises *whenever a deficit of legal capability[[8]](#footnote-9) necessitates legal support to enable a justiciable issue[[9]](#footnote-10) to be appropriately dealt with*. Consequently, a legal need can be considered as unmet if a justiciable issue is inappropriately dealt with as a consequence of effective legal support not having been available when necessary to make good a deficit of legal capability. If legal need is unmet, there is no access to justice. The concept of access to justice is closely linked to the constituent concept of legal need however they should not be intermingled and their assessment requires different approaches and methodologies.[[10]](#footnote-11) While the literature on access to justice assessments provides more flexibility in determination of the approach and tools for assessment[[11]](#footnote-12) the legal needs most commonly are assessed by a legal needs survey triangulated with administrative data.[[12]](#footnote-13)

## 2.2 Approaches in assessing legal needs

Though there are number of different approaches and methodologies which range in scope from national legal needs survey to tailored legal help checklist several key approaches used can be identified. Recent OECD and Open Society Justice Initiatives paper[[13]](#footnote-14) on approaches in conceptualizing and measuring access to justice analyzes the empirical research on legal needs undertaken in many jurisdictions around the world. The paper abstracts five key methodologies for accessing legal needs:

* Legal needs survey
* Legal needs assessment
* Administrative data and satisfaction surveys
* Institutional mapping projects
* Legal help checklists

Each of these methodologies offer an insight into the issue and use of one approach does not exclude other method.

### Legal needs surveys

These surveys are quantitative in nature and they generally consist of in-person, telephone, or internet interviews of the target population that focus on problems experienced in a given time period by respondents that may have been addressable through the civil /criminal justice system. These surveys seek to understand legal problems from the perspective of people as opposed to whether they were brought to a particular institution, like a court. This allows policymakers to understand the total scope of legal need as opposed to the slice that reaches a particular institution. This is highly relevant given that surveys regularly reveal that people with legal problems take no action to resolve them. They can be conducted as both standalone surveys and modules in broader living standards surveys. Each legal needs survey provides data about the following components:

* Whether the respondent (or anyone in their household) has experienced any legal problems in a specific preceding time period (typically twelve months to four years);
* Whether the respondent tried to resolve the problem or dispute and what legal or social assistance, if any, they sought or received;
* What institutions or resolution processes the respondent engaged in trying to address the problem;
* What outcomes were achieved through this process; and
* The respondent’s assessment of the process of resolution as well as the outcome.

This method’s added value is that enables identification of legal problems that cluster together or trigger each other or assess the objective or subjective severity of the problems. Empirical foundation developed over twenty years, more recent legal needs surveys have investigated emerging issues such as individual legal capability and collected more expansive data on costs of unresolved legal problems.

### b. Legal needs assessments

Unlike the quite rigorous and quantitative legal needs surveys, the legal needs assessments refer to wide range of qualitative approaches aimed at assessing legal needs. It provides flexibility with regards to methods and tools and there are different modalities that can be used. They may be implemented through more in-depth interviews with fewer respondents or through a mix of survey, focus groups, workshops, interviews to gather data about legal needs for their programmatic work. This method is suitable for geographic units, specific communities (low income, minority or marginalized group or specific types of legal problems) however the lack of unified approach and standardized methods and tools is not very suitable for nationwide and general population assessments while it provides a good insight into a specific categories or problems.

### c. Administrative data and satisfaction surveys with legal and justice services

Institution-generated data can include information on various types of cases, use of legal assistance services, the numbers of unrepresented parties before the courts and tribunals, use of ADR mechanisms that are connected to the formal justice system, and so on. User surveys include qualitative and quantitative elements and usually allow understanding the demographic profile of respondents to set the context for survey results. This type of data can assist in understanding the extent of legal need by contributing a picture of the demographic groups that accessed particular legal services, the nature of their expressed legal needs, the pathways they follow and the outcomes they achieve. This methodology differs from legal needs surveys and assessments as it collects information on legal need after a case has already reached a particular institution. As described above, legal needs surveys and assessments seek to understand legal problems whether or not they are taken to particular institutions. However, such data cannot estimate legal need that is expressed outside the legal system or the level of unmet legal need in the community. Although some statistics, such as the number of denials of legal aid applications can provide an indication of unmet legal need that is actually reaching the court system. Additional limitations include: paucity of data, lack of common units of measurement and methodologies.

### d. Institutional mapping projects

Relatively novel approach it investigates extent of legal need and the capacity of justice services to respond to them through complex exercises known as "needs mapping". Mapping projects contribute to a refined understanding of needs within a geographic area, the capacity of existing services to meet these needs, identify gaps in service, the degree of effective collaboration between providers, the ease of pathways. They involve combination of service inventories and focus groups with those involved in justice sectors and community members. It provides data on legal needs, what legal assistance services are available, how they are coordinated, who access these services, how the available services align with community legal needs, and how legal services can be improved. Usualy conducted in US and Canada. Specific subtype is Journey mapping – Identifies discrete tasks that unrepresented litigants must perform in various types of civil cases; individual tasks and render it as a “journey map”: a visual diagram of the typical steps an individual goes through in accessing a court or tribunal. Journey mapping is a design tool that assists service providers to understand and improve the experience of the user of their service. They are suitable for legal aid providers however the lack of consistency on its implementation makes it unsuitable for North Macedonia.

### e. Legal help check lists

The legal help check lists are emerging operational methodology. They build upon previous empirical knowledge gained from legal needs surveys. The approach is that it refines it into a checklist of legal problems frequently experienced by low income individuals or during critical life event (medical crisis within the family). This ‘second generation’ approach, which is used after baselines and trends are established through legal needs surveys, has been demonstrated to be effective in proactively ascertaining the legal needs of individuals well before the legal need is expressed. The legal help checklist approach could also be used at a systemic level by governments and legal service providers to better anticipate legal needs based on known patterns of legal problems and the demographics of various communities.

# Legal needs assessments in North Macedonia

In North Macedonia until now there has been only one country wide and general legal needs assessment and that was the *2012 Legal Needs and Path to Justice Survey.*

## 3.1 2012’s Legal Needs and Paths to Justice survey

In 2012 [Foundation Open Society Macedonia](https://fosm.mk/) initiated and financially supported the first general legal needs assessment in the country.[[14]](#footnote-15) The research process was subcontracted to a specialized research NGO [Reactor](https://www.reactor.org.mk/Default.aspx) who developed the methodology and conducted the survey. The assessment was carried as a **survey through a quantitative research** using the method of Computer-Assisted Telephone Interviewing (CATI). The sample was drawn from the general adult population (not from low income individuals or specific target groups) and it target size was between 2.500 and 2.800 respondents. The questionnaire used was based largely on the questionnaire designed by Hazel Genn in her seminal work Paths to Justice (Oxford, 1999) though adopted to the Macedonian context, i.e., the local legal and institutional environment. The adaptation was done through two focus groups (one with legal aid providers and one with lay people). The focus groups were conducted to identify problem categories and to test the language and wording of questions. The questionnaire was translated on Macedonian and Albanian language and was subject to a pre-testing to assess potential misunderstandings and difficult questions.

The survey was conducted in two phases: 1. **Screening survey** for the general adult population (aged 18 and above) and which was designed to estimate the prevalence of problems (justiciable events)[[15]](#footnote-16) in the previous three years (since September 2009). This part of the study involved a sample representative of the population of the Republic of North Macedonia, for a total of 2,858 individuals and 2. **Detailed telephone interview** that followed the screening survey and included individuals from the first sample who had reported at least one non-trivial justiciable problem. A total of 806 individuals were included in the second part of the study.

The main questionnaire focused on the event selected after the screening interview and covered the following issues:

* The nature of the dispute – its status, the other side, connection to other problems;
* Strategies for resolving the problem – advice taken, sources of advice, respondents’ satisfaction with the received advice;
* Objectives – what they wanted to achieve and the extent to which this was achieved, i.e., satisfaction;
* Experiences of the legal dispute resolution process – including expenses incurred, accessibility of legal advice, experiences of court processes;
* Passive strategies – where action was not taken, the reasons why and plans for future activities, if any;
* Outcomes – satisfaction, time frame of the dispute, severity of the problem;
* General assessment – general attitudes towards the dispute resolution process, impact of the problem on the respondents life and attitudes toward the legal system.

The survey showed that half of the population (49%) have experienced at least one justiciable problem. The most common problems are housing and property related, faced by one in four respondents (26.4%). Other commonly reported problems include those related to employment, consumer problems, and money or debt related problems. Less frequently reported problems included those related to children, education, health, police mistreatment and problems with partners. With regards to their attitudes when faced with a justiciable problem, two thirds of the citizens in the country try to resolve it. Most of them do so by themselves and with direct contact with the other side in the problem. Only 10% sought assistance from a lawyer. A substantial number of problems (one third) are not dealt with. Most often this is because of skepticism or a belief that nothing could be done or the loss of confidence that someone can help.

Only two out of five problems that respondents faced in the past three years were solved, while the rest were still ongoing. Furthermore, of the problems that were over, only two of five were deemed successful. If we look at the type of problems and compare the status of the problem, we can conclude that tenants’ problems and problems with police are most likely to be over, while problems with discrimination and with the government are most likely to be unfinished. Dispute resolutions reveals that most citizens are unfortunately not satisfied with the outcome. Two out of five respondents were dissatisfied with the outcome, with an additional one fifth reporting they were very unsatisfied. This means that three out of five respondents are not happy with the outcomes, despite their efforts to solve the problem.

# 4. Overview of context and needs regarding legal needs assessments

Several context related issues, enlisted bellow, are requiring conducting legal needs assessment in North Macedonia. Their thorough assessment can lead us to the most suitable methodology and approach.

* With exemption of the 2012 study, all other legal needs assessments conducted mostly by NGOs and supported by foreign donors, were focused on specific vulnerable group or legal issue, depending on their priorities and often using a variety of methods which are preventing comparability and integration of assessment findings for a more general access to justice policy. These assessments were dependent on NGOs and donors priorities and the risk of neglecting certain categories (not on high priority of the NGOs) is present (ex. elderly, middle income families etc.);
* The 2012 study follows to great extent the approach and methodology used in legal needs surveys and have established a solid baseline for future researches on this field;
* The policy making process based upon researches is still in its inception. EU Negotiations that will be opened soon shall require reforms that should be based upon research and evidence;
* There is scarcity of data on underrepresented litigants in court and administrative procedures. State Statistical Office’s data on access to justice is limited, almost non-existent;
* Significant problem in access to services such as social care;
* Policymaking based upon research is still in inception;
* Low capacity of MoJ to conduct more complex assessment besides gathering administrative dаta.

# 5. Recommendations on the approach and methodology

On the basis of the assessment of the needs, context and best practices I propose that the legal needs assessment be conducted in the form of legal needs survey following the *paths to justice methodology* (described below). There are three main arguments for this approach. Firstly it will enable comparability of the results with the 2012 study which is very important in order to assess the impact of policies in the area of access to justice. Secondly, the *justiciable events* approach is the most utilized method for assessing legal needs with significant literature and impact on policymaking processes[[16]](#footnote-17) and thirdly it enables comparability with other jurisdiction to certain extent.

## 5.1 What is legal needs survey?

Legal needs surveys investigate the experience of justiciable problems from the perspective of those who face them, rather than the professions and institutions that may play a role in their resolution (Ex. Lawyers, NGOs, judges etc.).[[17]](#footnote-18) Legal needs surveys can identify and explore the full range of responses to problems and, within this, the full range of sources to help and institutions available. Legal needs surveys are distinct from crime victimization or offending surveys, as their focus is on civil legal issues (family, commercial, administrative, etc.); although many stand-alone legal needs surveys also enquire into the experience of matters relating to criminal law (beyond those that are counterparts of civil law).[[18]](#footnote-19) Legal needs surveys are a specialized form of survey research.

Legal needs surveys give rise to unique considerations because they are situated within a unique conceptual framework, at the heart of which is the concept of the “justiciable” problem (defined above). Legal needs surveys investigate the experience of justiciable problems from the perspective of those who face them (a bottom up perspective) rather than that from that of a justice professionals and institutions (a top down perspective). Legal needs surveys are critical way for planners, policymakers and advocates to understand meaningful progress towards access to justice. They may be conducted as individual legal needs survey or as survey module within larger national survey (Ex. Scotland – Crime and justice survey 2008 – present, Colombia – National Quality of life survey 2016)

## 5.2 Development and methodological approaches of legal needs survey

Though the first legal needs survey was conducted in 1930s their use has increased in since the 90s. Over the past 25 years more than 55 large-scale (i.e 1.000 respondents or more) stand-alone national legal needs surveys have been conducted in more than 30 separate jurisdictions. Additionally, legal needs modules have also been incorporated into seven large scale government run national surveys.[[19]](#footnote-20) Legal needs survey methodologies and now relatively mature. Landmark legal needs surveys in the 1980s and 1990s – the *Civil Litigation Research Project and Comprehensive Legal Needs Study* in the United States and, particularly, the *Paths to Justice* surveys in the United Kingdom – have provided conceptually coherent and methodologically rigorous templates upon which later surveys have built.[[20]](#footnote-21) The overwhelming majority of the conducted surveys followed the methodology established with the *Paths to Justice* surveys.

## 5.3 Benefits of legal needs survey

Legal needs survey provides two key benefits. Firstly, it gives an insight into people’s experience of resolving justiciable problems, and secondly it provides unique and comprehensive overview of the justice system. These two benefits are impossible to be achieved by other means and as such, legal needs surveys provide vital data concerning access to justice. The survey provides an empirical basis for understanding how justice issue arise and how they affect the people. It enables us to look across and beyond institutions and the experience of the professionals. Provide the big picture of people s efforts to access justice. More specifically the legal needs survey produces the following outcomes:

* The enable quantification of justiciable problem experience across populations;
* Mapping of patterns of problem resolving behavior;
* Illuminate changes in experience and behavior over time (if surveys are conducted on regular time intervals);
* Identify obstacles in accessing legal services and procedures;
* Provide insight into levels of legal capability (legal understanding, awareness of services and legal confidence);
* Attitudes towards the justice system.

## 5.4 Legal needs survey and administrative data

Administrative data (collected by Ministry of Justice, NGOs, legal clinics ect.) is important for programing and assessment however it is insufficient to provide information necessary to assess the true scope of needs as they do not encompass problems that parties deal with it only informally or they ignore. Additionally, the existing problems of lack of proper data collection and data standardization are additionally making impossible to the create an image about the legal problems of the people in the country. The legal needs survey should by no mean be considered as an alternative to administrative data and data derived from legal aid providers. Rather, they are an essential compliment. The legal needs survey contextualizes administrative data and provide an overview of population’s perspective on access to justice.

# 6. Draft methodology for Legal Needs Assessment Survey in North Macedonia

**Main objective:**

To provide valuable evidence-based data to inform debate and policy developments concerning administering and providing legal aid.

**Aims:**

The legal needs survey should examine the nature of legal problems, the pathways to their resolution and the demographic groups that are particularly vulnerable to experiencing legal problems. More specifically, the study should assess:

1. the prevalence of legal problems;
2. the nature of legal problems;
3. the strategies used in response to legal problems;
4. the advice received for legal problems;
5. the finalisation of legal problems;
6. the outcome of legal problems;
7. the factors that may influence each of the above.

In relation to aim 7, the influence of the following factors should be examined by demographic characteristics (e.g. gender, age, ethnicity, disability status, education, employment status, family status, housing type, main income), characteristics of legal problems (e.g. type, recency and severity of problems).

**Methodological approach:**

1. ***Justiciable problem approach***

The legal needs assessment should follow the ***justiciable problem*** *approach,* already well developed and implemented in over 50 jurisdictions. The approach Paths to Justice tradition, having firm roots in, and following the structure of, Genn’s landmark survey in England and Wales.[[21]](#footnote-22) The starting point in the approach is that it recognizes that law does not always provide the best context for problem solving, and sees the adoption of a neutral stance towards citizen experience and behaviour. It is characterised by a focus on issues that may have a legal solution, but are not restricted to those familiar to lawyers or discussed in tribunals or civil courts. The aspiration is to observe the entire dispute pyramid, from everyday problems (whether or not they are understood as legal) to formal proceedings.

1. **Reference period**

Three years – It was the same in the previous survey

1. **Triviality threshold**

The survey should be focused to identify non-trivial justiciable events.

1. **Classification of justiciable events**

The legal problems should be grouped in the following classes:

* Consumer
* Employment
* Housing/Property
* Renting out property
* Living in rented property
* Money
* Problems with government transfers and services
* Education
* Problems with partners
* Children related problems
* Health related problems
* Discrimination
* Problems with police, problems experienced as a victim of crime,
* Defamation and privacy violation
* Other, self identified problem

1. **Survey instruments**

The questionnaire used in this study should be based largely on the questionnaire designed by Hazel Genn in her seminal work Paths to Justice adapted for local societal, legal and institutional context.

The adaptation is commonly conducted through two focus groups (one with lawyers providing legal aid and one with lay people. The adaptation should focus on identification of problem categories, testing the language and wording of questions.

1. **Sampling**

The sample from the survey should be drawn from the general adult population of the country. Though there is an alternative to focus the survey only towards low income individual, the general population approach has some advantages. Firstly, it gives a comprehensive image on the legal needs of the whole population. The available literature suggests that the legal advice sought is distributed in the population in a U-shape, meaning that middle-income families might be at the greatest risk and should therefore be surveyed[[22]](#footnote-23). The second reason is that the comparatively, the legal needs surveys are overwhelmingly targeting the general adult population (from the 56 conducted surveys only 5 were not general population surveys). And thirdly since the poverty rate in North Macedonia is among the highest in Europe, the poor people will not be under-surveyed.

Sample size should be determined by an expert in methodology of social research. The previous study estimated that a sample of 2.500 to 2.900 respondents is appropriate.

Since the interview shall be an adult in order to avoid overlooking the legal needs of children, some of the questions shall also referred to whether the children in the household of the interviewee have experienced the listed problems.

1. **Phases of research** 
   1. **Screening phase**

During the screening phase the respondents should be asked whether they had experienced various types of problems in the past three years. If their answers is yes, they needed to give the approximate time (month and year) when the problem started and to state how often they encountered the problem: once, more than once but rarely, occasionally or frequently.

* 1. **Detailed interview**

Only with persons that had faced a legal problem.

1. Which has its seat Avenue de l’Europe, 67075 Strasbourg Cedex, France [↑](#footnote-ref-2)
2. The Council of Europe reserves the right to request documentary evidence. [↑](#footnote-ref-3)
3. CM/Del/Dec(2010)1089/11.3 appendix 9 <https://search.coe.int/intranet/Pages/result_details.aspx?ObjectId=09000016805ceb14> [↑](#footnote-ref-4)
4. Ministry of Information Society and Administration. [Open Government Partnership National Action Plan 2018-2020](https://www.opengovpartnership.org/wp-content/uploads/2018/09/Macedonia_Action-Plan_2018-2020_EN.pdf).Skopje, 2018. p. 45. [↑](#footnote-ref-5)
5. OECD and Open Society Foundations (2019). [Legal Needs Surveys and Access to Justice](https://www.oecd-ilibrary.org/docserver/g2g9a36c-en.pdf?expires=1588529952&id=id&accname=guest&checksum=1CC7B58DD90A1D5F341203BE09822B2C). p. 24. [↑](#footnote-ref-6)
6. Organisation for Economic Co-operation and Development. [↑](#footnote-ref-7)
7. Open Society Foundations. [↑](#footnote-ref-8)
8. Legal capability refers to: ability to recognize legal issues; awareness of law, services and processes; ability to research law, services and processes; ability to deal with law related problems (ex. Confidence, communication skills, resilience). [↑](#footnote-ref-9)
9. Justiciable issues are problems which raise legal issues, whether or not this is recognized by those facing them and whether or not any action taken to deal with them involves the legal system. Genn (1999) [↑](#footnote-ref-10)
10. Supra note 2. p. 25. [↑](#footnote-ref-11)
11. UNDP (2012). Access to justice assessments in the Asia Pacific: A review of experiences and tools from the region. pp 18-48. [↑](#footnote-ref-12)
12. Supra note 2. p. 29. [↑](#footnote-ref-13)
13. OECD & OSJI (2016). [Understanding Effective Access to Justice](http://www.oecd.org/gov/Understanding-effective-access-justice-workshop-paper-final.pdf). Paris. [↑](#footnote-ref-14)
14. Korunovska Srbnjanko et al. (2013). [Legal Needs and Paths to Justice in the Republic of Macedonia](https://www.fosm.mk/CMS/Files/Documents/20131810-Analiza-eng.pdf). FOSM. [↑](#footnote-ref-15)
15. The screening questionnaire grouped the problems in the following categories: consumer, employment, housing/property, renting out property, living in rented property, money, problems with government transfers and services, education, problems with partners, children related problems, health related problems, discrimination, problems with police, problems experienced as a victim of crime, defamation and privacy violation, other, self- identified problem. [↑](#footnote-ref-16)
16. Pascoe Pleasence, Nigel, J. Balmer and Rebecca L. Sandefur (2013). Paths to Justice: A Past, Present and Future Roadmap. UCL Centre for Empirical Legal Studies. pp 65-68. [↑](#footnote-ref-17)
17. Pascoe Pleasence (2016) ‘Legal Need’ and Legal Needs Surveys: A Background Paper. Open Society Justice Initiative. p. 4. [↑](#footnote-ref-18)
18. Supra note 2. p. 25. [↑](#footnote-ref-19)
19. Ibid. [↑](#footnote-ref-20)
20. Supra note 8. p.4. [↑](#footnote-ref-21)
21. GENN & PATERSON, Paths to Justice Scotland. What People in Scotland Do and Think About Going to Law;PASCOE PLEASENCE, et al., Causes of Action: Civil Law and Social Justice [↑](#footnote-ref-22)
22. Trebilcock (2008). Report of the Legal Aid Review 2008. Ministry of the Attorney General, Ontario, [↑](#footnote-ref-23)