|  |  |
| --- | --- |
| 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 services on conducting 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”. In that context, it is looking for a Provider to conduct a nationwide survey on the legal needs and paths to justice of the people living in North Macedonia (as described in Appendix 1).

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

Prices are indicated in MKD 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**  **▼** |
| Conducting Nationwide Legal Needs Survey in accordance with the requirements laid out in Appendix 1 | 31 August 2022 |  |
| TOTAL ► | |  |

**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** |
| ☐ | The invoice shall indicate prices ***net fixed amount.*** | | |
| x | 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**

**Terms of reference**

***Nationwide survey on the legal needs and paths to justice of the people living in North Macedonia***

**2022**

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# 1. Introduction

1.1 The Council of Europe is implementing the project [*Supporting enhanced access to higher quality Free Legal Aid (FLA) services in North Macedonia*](https://rm.coe.int/hf12-leaflet-eng/16809d5c82/)(hereinafter referred as the Project). The Project aims at enhancing the efficiency, quality, accessibility, and awareness of free legal aid in North Macedonia. More concretely, it focuses on: *i.* Harmonization of provisions, policies and practices related to free legal aid in North Macedonia; *ii.* Capacity building for the main actors in the field (Ministry of Justice, Bar Association and CSOs) including more structured and continuous coordination between the main stakeholders; & *iii.* Awareness raising for the public and related institutional actors in the country to support increased access to free legal aid.

1.2 The program office of the Council of Europe in Skopje, within the auspices of the **Project plans to conduct an assessment on the legal needs[[4]](#footnote-5) of the population** in North Macedonia. **The assessment will be carried out in the form of legal needs survey[[5]](#footnote-6)**. The process is guided and supported by one national and one international expert who will develop the methodological framework for the survey, draft the data collection instrument (questionnaire) and write the report from the survey.

1.3 For the purpose of data gathering for the legal needs survey, the Council of Europe seeks a prospective service provider with proven track record in surveying public opinion and perceptions, for delivering the services described in detail in these terms of reference.

1.4 These terms of reference contain: background information on the process; definition of the purpose, objective and the scope of the services; overview of the required methodological approach for conducting the survey; list of the tasks to be implemented as well as expected deliverables; role of the contractor (CoE) in the process; the criteria for selection and the procedure for application/bidding.

# 2. Background & context

2.1 Access to justice[[6]](#footnote-7) is crucial for advancing well-being of the people and sustainable development. Effective access to justice helps resolve disputes at the heart of people’s lives, promotes government accountability and gives people and businesses confidence to enter into and enforce contracts. An important component of access to justice is the concept of legal need. Legal need arises whenever a deficit of legal capability requires legal support[[7]](#footnote-8) to appropriately address a justiciable problem to be appropriately dealt with.

2.2 In order to assess to what extent the legal needs are met in one society during the XX century the tool of legal needs survey was developed and utilized. 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. Thus, legal needs surveys can identify and explore the full range of responses to problems and, within this, the full range of sources of help and institutions available.

2.3 Legal needs surveys have a long history. The use of such surveys has increased in recent decades, and they are now relatively commonplace across the globe. Over the past 25 years, more than 55 large-scale (i.e. 1,000 respondents or more) stand-alone national legal needs surveys of individuals have been conducted in more than 30 separate jurisdictions.[[8]](#footnote-9) The World Justice Project collects and present data on the conducted legal needs surveys[[9]](#footnote-10).

2.4 In 2019, the OECD and Open Society Foundations published a [Guide on Legal Needs Surveys and Access to Justice Guide](https://www.oecd.org/gov/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm). The Guide, developed on the basis of the experience of 55 surveys in 30 jurisdictions, provides a framework for understanding and measuring legal needs as well as methodological guidance and model questions[[10]](#footnote-11). Aside from this Guide, an extensive literature studying the legal needs survey as an instrument has been developed to serve as a resource for future surveys.

2.5 In 2012 Foundation Open Society Macedonia (FOSM) initiated and financially supported the first general legal needs survey in the country.[[11]](#footnote-12) The research process was subcontracted to a specialized research NGO Reactor who developed the methodology and conducted the survey on a representative sample of 2,858 respondents. The assessment was carried as a survey through a quantitative research using the method of Computer-Assisted Telephone Interviewing (CATI). The survey showed that half of the population (49%) have experienced at least one justiciable problem.

2.6 In 2018 the Government pledged within 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) 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. In 2019 a new Law on Free Legal Aid was adopted that aimed to improve the access to justice. In 2020 the Council of Europe in communication with the Ministry of Justice agreed to support the process for conducting the legal needs survey.

# 3. Purpose & objective of the survey

3.1The main **purpose** of the legal needs survey is to provide valuable evidence-based empirical data and to inform debate and policy developments concerning administering and providing legal aid as well as the overall access to justice system in North Macedonia. By gaining insights into the perceptions, attitudes and behavior of people when faced with certain problem of legal nature the policy makers will be able to modify existing or introduce new policies and laws aimed to improve the overall access to justice of the people in North Macedonia.

3.2 Moreover, having evidence on people’s experience of resolving justiciable problems will provide an unique overview of the overall functioning of the justice system, its effectiveness and the confidence of the people in it. The findings of the survey will inform the policy making in the area of judiciary, social protection, non-discrimination, consumer protection. Additionally, the survey will give insight into the impact of the COVID Measuring legal need and unmet legal need.

3.3 The **objectives** of the legal needs survey are:

* To quantify the prevalence and patterns of justiciable problems across populations;
* To map the patterns of problem resolving/seeking behavior;
* To identify obstacles in accessing legal services and processes (ex. poor service delivery; lack of available legal aid; unresponsive institutions etc.)
* To provide insight into levels of legal capability (including legal understanding, awareness of services, legal confidence, etc.),
* To assess the attitudes towards and trust in the justice system;

3.4 Concerning its **scope**, 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 finalization 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 (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).

# 4. Approach & methodology

## General information

4.1 The survey will follow the ***justiciable problem[[12]](#footnote-13)*** *approach,* already well developed, studied and implemented in over 50 jurisdictions[[13]](#footnote-14). The framework for the research as well as the survey instrument (the questionnaire) will be developed by the Council of Europe’s consultants (see par. 1.2). The tenderer will be able to review the questionnaire and to propose necessary adjustments (See Section 5).

4.2 In view of the ongoing pandemic, face-to-face interviews cannot be conducted. Instead priority should be given to **Computer Assisted Telephone Interviewing (CATI)**.

4.3 The sample should be drawn from the **general adult population** of the country. The tenderers should address the question how with the CATI approach will integrate marginalized and excluded populations groups in order to ensure that these groups are not underrepresented in the survey. The units of measurement will be the individual, not the household.

4.4 The data gathering, in accordance with the approach should be conducted in two phases:

* **Phase 1: Screening survey** - To estimate the prevalence of problems;
* **Phase 2: Detailed interview** – **Only with the persons who reported a legal problem either immediately following the screening survey or in time agreed with the respondent**;

4.5 The reference period i.e the time frame for which the respondents will be asked to report their experiences is three years (2019, 2020, 2021)

## Target population & sample design

4.6 The tenderer must ensure that the sample is representative of the general adult population and should propose a sample design. The sample must reflect the true proportions (as per the latest census) on the following socio-demographic variables (region, age, gender, ethnicity and educational level). The Council of Europe**requires sample size of:**

* **(n≈ 3000) for the Screening survey and**
* **(n≈ 1500) for the Detailed Interview.**

4.7 The sample should be drawn using recognized probability methods, all the way down to the selection of the individual respondent. In the event that any departure from probability sampling methods is recommended by the tenderer for all or any part of the survey, the sampling methodologies to be employed shall be described in detail and a rationale for their use shall be provided.

4.8 A detailed sampling methodology shall be submitted to the CoE prior to fieldwork, including a description of the survey coverage, allocation of the sample, description of the sampling frame, description of any stratification criteria to be used, description of the stages of selection and the selections methods to be used at each stage, the method to be used for selection of the respondent in case of shared phone numbers, and call-back rules to be employed. It is assumed that the sample will be distributed in proportion to the population of each region or other geographic unit to be surveyed; in the event that the tenderer wishes to propose a sample design departing from this principle, the proposal should describe the allocation to be used and the reasons for doing so. The target variables of the respondents are to comprise at least: region, size of locality, age, sex, size of household, educational level, marital status and occupation of the respondent.

## Data collection instrument (Questionnaires)

4.9 The Council of Europe through its research team will provide a draft questionnaire and the tenderer will provide feedback. CoE requests translation into Albanian. Translations will be reviewed and approved by CoE. The tenderer has to program the logic of the questionnaire into its CATI tool. The questionnaire design draws heavily upon the recently published OECD Legal needs Surveys and Access to Justice Guide.

4.9 The adaptation of the questionnaire will be conducted through two focus groups (one with lawyers providing legal aid and one with lay people). The focus groups will be organized by the CoE. The tenderer is expected to participate in the focus groups.

4.10 The **questionnaire will contain around 100-120 questions** excluding the socio-demographic part. All or almost **all questions are closed questions** with single choice option. A few questions (4-8) are multiple-choice questions.

4.11 Based upon the experience from the 2012 survey**, the duration of the Screening Survey was 14 minutes** while **the duration of the detailed interview was 16 minutes**. The tenderer should describe in detail how will ensure that attrition rate between the screening survey and the detailed interview (for the people who reported legal problem) remains minimal.

## Response rates

4.12 Tenderers should detail in their technical proposal which measures they intend to use to ensure that the response rates for the survey are as high as possible (number of calls, any methods for arranging calls, interviewers' techniques for making contact, etc.). Only one interview must be conducted per telephone number dialed

## Data processing

4.13 The tenderer is responsible for ensuring proper coding of the raw data. In the technical offer the Contractor must describe the methods that will be used to ensure the high quality and comparability of the data. The rationale behind the proposed methodology must be duly explained and justified. When outlining their methodology, tenderers shall identify possible difficulties/risks and propose effective ways of addressing them, should they materialize. In the implementation of the contract, tenderers should give due regard to applicable legislation on data protection. A short overview shall be included in the methodological approach to be described in the offers

# 5. Tasks

## a. Survey design & sampling plan

5.1The Council of Europe will provide a draft questionnaire*.* The tenderer will review the documents and provide appropriate input, such as a need for rephrasing certain terms or questions. The tenderer will participate in the focus groups for reviewing the questionnaires organized by the research team. The tenderer will be responsible for development of a sampling plan.

## b. Pre-test

5.2 The questionnaire should be pre-tested by the tenderer prior to the commencement of any fieldwork. No less than 20 pre-test interviews should be conducted. The tenderer shall provide CoE with a written report of the results of the pre-test, along with details of any problems encountered and suggested remedies, prior to the commencement of any fieldwork.

## c. Preparatory activities

5.3 The interviews should be conducted by experienced workers who shall be thoroughly briefed by tenderer. The tenderer shall ensure that interviewers are thoroughly familiar with household and respondent selection procedures, call back procedures (at least 3 attempts before substituting a selected respondent), and the structure of the questionnaire, including routing and filtering. Interviewer training shall include practice sessions in administering the questionnaire. A minimum of 10 percent of interviews shall be back checked. The Council of Europe expert should participate in the trainings.

## d. Data collection

5.4 This task consists of carrying out the survey in order for the necessary number of completed questionnaires to be reached. The tenderer will be responsible for planning and performing all related activities following the relevant survey standards and rules. The contractor will report frequently to the CoE during this stage of the project in order to communicate any potential difficulty that might arise at this task.

## e. Data processing

5.5 The tenderer shall be responsible for data entry. It shall supply data to CoE as a clean, fully labeled in English SPSS “\*.sav” file with a complete data dictionary of variable names and value labels. There should be one data record for each respondent and records should be of fixed length. Each record shall include a unique respondent ID number, interviewer ID number, interview duration, survey start and end times, date of interview, and interview language if there is more than one. Each record shall include demographic information about the respondent.

## f. Reporting of the Survey

5.6 When delivering data, the bidder should provide a comprehensive technical report that should include:

* Complete sampling methodology
* Details of response rates, including tabulation of unsuccessful interview attempts, with reasons for non-response (i.e. respondent refusal, proxy refusal, inability to locate selected respondent, etc.).
* A brief report on survey operations including any practical difficulties encountered in carrying out the survey;
* Estimated sampling error;
* A complete explanation of the weighting scheme including details of how weighting factors were developed and applied, as well as the demographic data on which weights were based (i.e., age, gender, and education distributions in the population);
* Total number of people contacted and selected;
* Number of interviews completed in full;
* Number of interviews completed in part (terminated during the interview);
* Number of refusals (as a percentage of the number of people contacted);
* Response rate (as a percentage of the number of people contacted);
* Duration of interview (specifying starting and ending time of an interview).

5.7 The tenderer should participate in events for promotion of the final report from the survey.

# 6. Deliverables

6.1 Based upon completed tasks, the tenderer should produce the following deliverables from the assignment:

* Survey design;
* Sampling plan;
* Pretest report;
* A complete data set formatted as SPSS file;
* A technical report (content described in Section 5);

# 7. Project management & time frame

7.1 The tenderer shall specify in the offer the project management and governance structure that it intends to set up. Amongst others, it shall accomplish the following:

* Provide a dedicated, proactive and reactive management structure capable of responding to the needs of the contracting authority;
* Provide the statistical expertise of conducting public surveys following state of the art statistical techniques;
* Ensure and respect deadlines and budgets;
* Ensure a flexible approach to resources management within the organization i.e. adaptation of the allocation of man-days and corresponding budget;
* Maintain regular communication with the Council of Europe and the experts via face-to-face meetings, on-line meetings, phone calls and e-mails.;

7.2 The tenderer shall inform the Council of Europe of any changes (departures, arrivals, promotions, etc.) in the composition of the team during the performance of the contract. He/she must ensure that the composition of the team complies with the present tender specifications throughout the full duration of the contract including providing an appropriate back-up person in case of absences.

7.3 Regular exchanges between the Council of Europe and the tenderer will be required for the duration of the contract and shall be foreseen and planned in advance.

7.4 The tentative time frame for the task is as follows:

|  |  |
| --- | --- |
| **Task:** | **Timeframe** |
| Survey design & sampling plan | May 2022 |
| Pre-test | May 2022 |
| Preparatory activities | May 2022 |
| Data collection | June– July 2022 |
| Data processing | July – August 2022 |
| Reporting of the Survey | September 2022 |

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. Legal need arises when citizens (or businesses) require support from legal services in order to resolve problems which have a legal dimension. Pleasence P. (2016) ‘[Legal Need’ and Legal Needs Surveys: A Background Paper](https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web_Pascoe.pdf). Open Society Justice Initiative. [↑](#footnote-ref-5)
5. Legal needs survey are specific form of survey research that investigates 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. OECD/Open Society Foundations (2019), [Legal Needs Surveys and Access to Justice](https://www.oecd.org/gov/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm), OECD Publishing. [↑](#footnote-ref-6)
6. Access to justice concerns the ability of people to obtain just resolution of justiciable problems (a problem that raises legal issues) and enforce their rights, in compliance with human rights standards. [↑](#footnote-ref-7)
7. Common problems include those concerning consumer issues, money, neighbors, family matters, housing and land, employment, social safety net assistance, and access to public services. [↑](#footnote-ref-8)
8. OECD and Open Society Foundations (2019). Legal Needs Surveys and Access to Justice. p. 24. [↑](#footnote-ref-9)
9. For a detailed list of all publicly available legal needs surveys conducted since 1991 see World Justice Project’s [Atlas of Legal Needs Surveys – Interactive map](https://worldjusticeproject.org/our-work/research-and-data/atlas-legal-needs-surveys). [↑](#footnote-ref-10)
10. The model questions seek to capture three core components of effective access to justice: 1. The nature and extent of unmet legal and justice needs; 2. The impact of unmet legal and justice needs on individuals, the community and the state; and 3. How specific models of legal assistance and dispute resolution are utilised to meet needs. [↑](#footnote-ref-11)
11. 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-12)
12. Problems that raise legal issues, whether or not this is recognized by those facing hem, and whether or not lawyers or legal processes are invoked in any action taken to deal with them. [↑](#footnote-ref-13)
13. 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-14)