

HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

THE EXPERTISE
CO-ORDINATION MECHANISM
— AN OVERVIEW



Ensuring justice

Fighting corruption, economic crime and organised crime

Combating discrimination and protecting
the rights of vulnerable groups

Freedom of expression and freedom of the media

Expertise co-ordination mechanism

<http://horizontal-facility-eu.coe.int>

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

The Horizontal Facility for the Western Balkans and Turkey (Horizontal Facility II) 2019-2022 is the host programme of the Expertise Co-ordination Mechanism.

It is the second phase of co-operation initiative of the European Union and the Council of Europe aiming to assist Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia and Turkey in complying with Council of Europe standards and European Union *acquis* in the framework of the enlargement process.

It builds on the results of the first phase which ran from 2016 to 2019 with broader thematic areas including: ensuring justice; fighting economic crime; combating discrimination and protecting the rights of vulnerable groups (including LGBTI, minorities and Roma) and freedom of expression and freedom of the media.

The Horizontal Facility II supports the beneficiary concerned through a complementary two-fold approach:

- ▶ Technical co-operation tailored to achieve increased compliance with European standards, and
- ▶ Provision of ad-hoc advice and expertise in response to requests for legislative analysis and related assistance through the Expertise Co-ordination Mechanism (ECM).

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



WHAT IS THE EXPERTISE CO-ORDINATION MECHANISM?

▶ The Expertise Co-ordination Mechanism (ECM) is a tool for provision of legislative expertise and policy advice by the Council of Europe in response to specific requests. It is part of the European Union and the Council of Europe co-operation programme, the Horizontal Facility for the Western Balkans and Turkey II (referred to hereafter as the Horizontal Facility II).

WHAT IS THE SCOPE OF THE ECM?

▶ Geographically the ECM covers Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia and Turkey.

▶ Its scope of work includes expert advice on legislative and policy issues, including to assess the alignment of legislation and/or policy documents with Council of Europe standards, in the following areas:

- ▶ ensuring justice;
- ▶ fighting economic crime;
- ▶ anti-discrimination and the protection of the rights of vulnerable groups;
- ▶ freedom of expression and the media;
- ▶ constitutional issues, falling within the area of competence of the European Commission for Democracy through Law (better known as the Venice Commission).

WHO CAN MAKE A REQUEST UNDER THE ECM?

Ministers (and other members of the government) or the speaker of parliament of the Beneficiary concerned can make a request for an expert opinion under the ECM.

Furthermore, specifically for issues which fall within the area of competence of the Venice Commission, the European Union as well as Council of Europe organs (i.e. the Secretary General, Committee of Ministers, Parliamentary Assembly and the Congress of Local and Regional Authorities) can also submit requests for ECM assistance. In addition, requests for *amicus curiae* briefs by the Venice Commission can also be made by constitutional courts.

HOW TO FORMULATE A REQUEST AND HOW IS IT PROCESSED

Requests can be addressed in writing by letter or fax to the Secretary General of the Council of Europe, Marija Pejčinović Burić. Requests involving Venice Commission expertise can also be addressed directly to the President of the Venice Commission, Gianni Buquicchio.

Requests should preferably include as many details as possible, including the name and type of legislation or policy document on which expertise is being sought, the reasons for seeking expertise or for amending legislation or policies and the envisaged time-line for adoption of the new legislation or policy documents (or amendments to existing legislation and policy documents), following the provision of the requested expertise.

Once received, the requests will be processed by the relevant Council of Europe entities. While the Council of Europe aims to deliver requested expertise as soon as possible, the precise timeframe is defined in consultation with the requesting authorities.





WHAT ARE THE CRITERIA FOR GRANTING A REQUEST?

- An ECM request must meet all the following criteria. The request:
 - ▶ must be made by a member of the government or speaker of the parliament or, if it concerns an *amicus curiae* opinion, by the constitutional court of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia or Turkey (or can – in case the request would concern expertise of the Venice Commission – also be made by the European Union or the Secretary General, Committee of Ministers, Parliamentary Assembly or Congress of Local and Regional Authorities);
 - ▶ must fall within an area of expertise of the Council of Europe;
 - ▶ must fall within the following thematic areas: ensuring justice; fighting economic crime; anti-discrimination and the protection of the rights of vulnerable groups; freedom of expression and the media; constitutional issues falling within the area of competence of the Venice Commission;
 - ▶ cannot be provided within the format of one of the ongoing actions of the technical co-operation component of the Horizontal Facility.

WHERE TO ADDRESS THE REQUEST?

■ ECM requests can be sent by letter or fax to the Secretary General of the Council of Europe:

- ▶ Marija Pejčinović Burić
Secretary General of the Council of Europe
Council of Europe
F-67075 Strasbourg Cedex, France – Fax: + 33 3 88 41 27 99
Website: www.coe.int/en/web/secretary-general/private-office

■ ECM requests involving Venice Commission expertise can also be sent by letter, e-mail or fax to the President of the Venice Commission:

- ▶ Gianni Buquicchio
President of the Venice Commission
Council of Europe
67075 Strasbourg Cedex, France – Fax: +33 3 88 41 37 38
e-mail: venice@coe.int

Examples of support provided under the ECM (2016- 2019)

- ▶ The Constitutional Court of Albania requested an *amicus curiae* brief on the **Law on Treatment of Property and Finalisation of the Process of Compensation of Property**. The brief was adopted by the Venice Commission on 14-15 October 2016, paving the way to the adaption and implementation of this key legislation.
- ▶ In Bosnia and Herzegovina, legal expertise was provided by the Council of Europe in April 2018 on the **Law on the rights of the victims of torture**, upon the request of the Ministry of Human Rights and Refugees.
- ▶ In Montenegro, an opinion was provided on human-rights related provisions of draft Law on Foreigners. The Law, which was adopted in February 2018, ensured a better balance of security provisions with those safeguarding human rights of persons in migration, in line with the European Convention on Human Rights and European Court of Human Rights case law.
- ▶ The Ministry of Labour and Social Policy of North Macedonia requested support for drafting **the Law on the Prevention and Protection against Discrimination**. Following an opinion by the Venice commission adopted at its Plenary Session on 16-17 March 2018 (CDL-AD(2018)001), the Law was adopted in March 2019, significantly introducing gender identity as a ground for discrimination.
- ▶ Support was provided to improve draft amendments to the **Constitutional provisions relating to the judiciary** in Serbia. An opinion was adopted by the Venice Commission in June 2018 (CDL-AD(2018)011) which raised a number of issues to be addressed. At its October 2018 plenary session, the Venice Commission found that the government of Serbia had followed its recommendations in the revised draft of the Constitution.

MORE INFORMATION

<http://horizontal-facility-eu.coe.int>

 [jp.horizontal.facility](https://www.facebook.com/jp.horizontal.facility)

 [@CoE_EU_HF](https://twitter.com/CoE_EU_HF)

CONTACT

Horizontal Facility Co-ordination Team
Office of the Directorate General of Programmes
Council of Europe
Avenue de l'Europe F-67075 Strasbourg Cedex, France
E-mail: Horizontal.Facility@coe.int

The “Horizontal Facility for the Western Balkans and Turkey 2019-2022” is a joint initiative of the European Union and the Council of Europe that enables the Beneficiaries to meet their reform agendas in the fields of human rights, rule of law and democracy and to comply with the European standards, including where relevant within the framework of the EU enlargement process. This three-year programme covers actions in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, Turkey, as well as Kosovo* and it is implemented by the Council of Europe from May 2019.

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

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

www.coe.int

The member states of the European Union have decided to link together their know-how, resources and destinies. Together, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

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