

1 BACKGROUND INFORMATION

1.1 Partner Country

The Republic of North Macedonia

1.2 Contracting authority

Delegation of the European Union to the Republic of North Macedonia on behalf of the Republic of North Macedonia

1.3 Country background

North Macedonia – along with other Western Balkans partners – was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in 2003. Its Stabilisation and Association Agreement, the first in the region, is in force since 2004. It applied for EU membership in March 2004 and the Council decided in December 2005 to grant the country candidate status. Since October 2009, the Commission has continuously recommended to open accession negotiations with North Macedonia. In 2015 and 2016, the recommendation was made conditional on the continued implementation of the Pržino agreement and substantial progress in the implementation of the ‘Urgent Reform Priorities’. In light of the progress achieved, the Commission repeated its unconditional recommendation to open accession negotiations in April 2018. In light of the significant progress achieved and the conditions set unanimously by the Council in June 2018 having been met, the Commission recommended in May 2019 to open accession negotiations with North Macedonia. In March 2020, the General Affairs Council decided to open accession negotiations with North Macedonia and endorsed the Commission Communication on a revised methodology "Enhancing the accession process - A credible EU perspective for the Western Balkans" of February 2020. The decision was endorsed by members of the European Council. In July 2020 the draft negotiating framework was presented to the Member States. In July 2022, the Intergovernmental Conference on accession negotiations was held with North Macedonia. The Commission started the screening process.

With the support of the EU, the country has made significant efforts in the last few years to put in place a strategic framework for the reforms in the justice sector. The main reference to this are the Judicial Sector Reform Strategy 2017-2022 and the respective Action plan.¹ Both document address the 2015 ‘Urgent Reform Priorities,’ including the set of recommendations by the Venice Commission and the Senior Experts’ Group on systemic Rule of Law issues. The Strategy represents the roadmap to successful reform in the judicial sector to secure effective protection of individual rights and freedoms of citizens, in line with the recommendations made by the EU, other international bodies and independent experts.²

¹ https://www.pravda.gov.mk/Upload/Documents/Strategija%20i%20akciski%20plan_ANG-web.pdf. Other relevant strategies in the sector are: National Strategy for the Development of the Penitentiary System 2020-2025; Strategy for Development of the Probation Service 2018-2023; Strategy for Information Communication Technology of Justice Sector 2019-2025; and Open Government Partnership Action 2018-2022.

² Justice Strategy integrates measures to address the recommendations in the EU Country Progress Report, the recommendations from the Senior Expert’ Group on Systematic Rule of Law issues; the GRECO Evaluation Report-fourth round, December 2013; the GRECO Compliance Report-fourth round, July 2016; the European Commission for the Efficiency of Justice (CEPEJ)-Evaluation Report of the European Judicial Systems and Efficiency and Quality of Justice-last edition 2016 (data from 2014); the Opinion of the Venice Commission on the Laws on Disciplinary Liability and Evaluation of Judges, December 2015; as well as the ECHR case-law reflected in the judgments against the Beneficiary country.

The EC Country reports, including the last one from 2022, recognised the positive progress in the judicial reform. The steady implementation of the judicial reform strategy continues and the preparation of the new one (for the period 2023-2027) is underway. The judiciary has demonstrated its commitment to protect its integrity and independence. Judicial institutions have implemented consistently the new rules for the appointment, promotion, discipline and dismissal of judges and prosecutors. Also, the Judicial Council and the Council of Public Prosecutors continued implementing the strategic plans. Progress is being made, but more needs to be done to ensure that, in accordance with the EC recommendations, the country: 1) finishes implementing the judicial reform strategy and the updated action plan, with a specific focus on adopting a new law on civil procedure, in line with European standards and on preparing the new strategy on judicial reform (for 2023-2027) without delay; 2) steps up implementation of the human resources strategies for the judiciary and public prosecution network, and use them as an indicator to forecast upcoming recruitment; and 3) deploys all the necessary resources to ensure that the automated court case management information system (ACCMIS) is fully functional and compatible with the new measure of complexity of court cases and the method for assessing judges and presidents of courts.

1.4 Current situation in the sector

The Constitutional judiciary in the country was established by the 1963 Constitution. The Constitutional Court (CC), as an independent organ of the Republic protecting the constitutionality and legality, began its work on February 15, 1964.³ Following the independence and the introduction of the new constitutional order in 1991, the Constitution of 17 November 1991 established the composition, content and competence of the new CC in accordance with the European (continental) model of the constitutional judiciary. The competences of the Constitutional Court are defined in Article 110 of the Constitution: the Court decides on the conformity of laws with the Constitution; decides on the conformity of collective agreements and other regulations with the Constitution and laws; protects the freedoms and rights of the individual and citizens relating to the freedom of conviction, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination among citizens on the ground of sex, race, religion or national, social or political affiliation; decides on conflicts of competency among holders of legislative, executive and judicial offices; decides on conflicts of competency among Republic bodies and units of local self-government; decides on the answerability of the President of the Republic; decides on the constitutionality of the programmes and statutes of political parties and associations of citizens; and decides on other issues determined by the Constitution.

According to Article 113 of the Constitution, the mode of work and the procedure of the CC are regulated by an act of the Court. Currently, that unique legal act is the Rules of Procedure of the Constitutional Court, adopted by the CC on 7 October 1992. The Rules of Procedure have been amended and supplemented three times so far: in October 2019, an intervention was carried out in order to comply with the constitutional amendments to change the constitutional name of the Republic; in October 2020, an amendment was adopted establishing a special right to a salary supplement for the judges of the CC and regulating the manner of its payment; and in March 2021, the provisions relating to the group of employees for whom the court determines their salary were amended and a technical adjustment was carried out among a certain group of employees in the Service (technical workers). The Rules of Procedure regulate the overall procedure of decision-making, as well as the internal organisation of the CC and the issues concerning the status of the advisers and other staff of the CC.

³ http://ustavensud.mk/?page_id=5216&lang=en

As to the composition of the court, Article 109 of the Constitution prescribes an elected body of nine judges that compose the CC. Selected from the ranks of the outstanding members of the legal profession, their term in the office is nine years without the right to re-election.⁴ Amendment XV of 2001 to the Constitution, stipulated the election of six of the judges to the CC by a majority vote of the total number of Representatives in the Parliament. Three of the judges are elected by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to the communities not in the majority in the population of the country. Accordingly, the composition of the Constitutional Court reflects the multi-ethnic character of the society.

The court currently functions with six of the nine constitutionally envisaged judges, two of which are females and four males. On December 7, 2022, the term of office of one judge, elected on the proposal of the Judicial Council, expired. The completion of the composition of the CC has been stalled for some time by fierce political discords between the MPs of the two biggest parties members of Parliament's Committee on Issues of Elections and Appointment. The decision-making process has been in question for several months, precisely because of the incomplete composition of the court. On May 30, 2023, the President of the CC stated that due to lack of a quorum for holding sessions, no decisions have been made for more than 30 cases and until its complete constitution, no important cases will be considered.

In addition, Article 111 of the Constitution prescribes that the office of judge of the CC is incompatible with the performance of other public office, profession or membership in a political party. Judges of the CC are granted immunity.⁵ The CC itself decides on their immunity. The office of a judge of the CC ceases when the incumbent resigns. A judge of the CC is discharged from office if sentenced for a criminal offence to unconditional imprisonment of a minimum of six months, or if he/she permanently loses the capability of performing his/her office, as determined by the CC itself.

The CC is authorised to protect the freedoms and rights of individuals and citizens with respect to the certain very limited number of constitutional rights, specifically:

- to the freedom of conviction, conscience, thought and public expression of thought,
- to the political association and activity,
- to the prohibition of discrimination among citizens on the ground of sex, race, religion or national, social or political affiliation.

Articles 51–57 of the Rules of Procedure, regulate the current "request for the protection of freedom and right".

⁴ Article 7 of the Rules of Procedure further prescribes that the Plenary Session of the CC elects a President of the CC from among the judges, with a two-thirds majority of the total number of judges, by secret vote. Any judge may suggest a candidate for a President. The proposal for a candidate for a President is confirmed by a commission of three judges elected by a majority of the total number of judges. If the candidate does not obtain the necessary majority of votes, the procedure for the election of a President is repeated.

⁵ Article 10 of the Rules of Procedure further develops this rule by prescribing that the judges of the CC are granted immunity like the members of Parliament, defined by the Constitution. The judge may not be called upon to a criminal responsibility or arrested for the expressed view or voting in the CC. The judge cannot be arrested without an approval by the CC, unless he/she is caught in a criminal act, for which a sentence prison of at least 5 years is prescribed. The CC may decide to apply immunity for a judge, although he/she has not invoked it himself/herself, if this is necessary for executing its function.

Received requests for protection of freedom and rights:

Year	Total number of "requests for the protection of freedom and right" received	Total number of resolved requests for the protection of freedom and rights	Total number of all petitions received	Total number of resolved petitions
2012	25	27	205	239
2013	22	13	170	142
2014	13	15	173	193
2015	13	15	128	150
2016	8	11	181	161
2017	5	5	168	134
2018	11	9	137	211
2019	19	8	167	114
2020	18	16	324	278
2021	12	14	148	174

In 2018, a TAIEX Expert Mission on the Protection of Human Rights by the Constitutional Court, carried out by Ms Jasna Omejec, concluded that “the solution to improve the individual protection of human rights applied by the CC might be sought only through the amendments to the CC's Rules of Procedure and with full respect for the current Article 110 line 3 of the Constitution”, without the adoption of a specific law to regulate the CC or modify the Constitution. In addition, “there is a room for a "full" constitutional complaint/appeal to be introduced through the amendments to the Rules of Procedure, regardless of the present limited scope of the catalogue of constitutional rights protected by the CC. This means that Articles 51–57 of the Rules of Procedure, which regulate the current "request for the protection of freedom and right" (*барање за заштита на слободи и права*), should be substantially changed”.

Professional service of the CC

The table below represents the current number of the employees in the Constitutional Court.

Number	Job position	Number of employees according to the Act of systematization	Number of filled job positions
1.	Secretary of the CC	1	1
2.	Court Advisor	19	16
3.	Independent Advisor	11	1
4.	Advisor	12	7
5.	Administrative worker	19	11
6.	Technical worker	10	7
TOTAL:		63	44

Gender structure of the employees in the CC

Men	10	22,72%
Women	34	77,27%

The professional court service is regulated with four bylaws which were adopted in January 2021.

- Rulebook on internal organization of the professional service of the Constitutional Court of the Republic of North Macedonia;
- Rulebook on job systematization in the professional service of the Constitutional Court of the Republic of North Macedonia;
- Rulebook on employment and promotion in the professional service of the Constitutional Court of the Republic of North Macedonia and
- Rulebook on salaries of the employees in the professional service of the Constitutional Court of the Republic of North Macedonia.

The **Ministry of Justice** (MoJ) has competency for securing the rule of law and better access to justice by preparation, implementation and monitoring of the legal and institutional capacities related to judiciary, anticorruption, criminal justice, civil justice, administrative justice, legal aid, international legal assistance, human rights, IT in the judiciary etc. The MoJ is the lead institution in view of harmonization with the EU legislation and other activities related to the EU accession process. It also leads the implementation of the IPA 2021 Action, under which this project is funded.

1.5 Related programmes and other donor activities

Title: Constitutional Court – Guarantor of the Rule of Law’ implemented by Institute for Human Rights

Donor: Embassy of the Netherlands

Duration: September 2020 – August 2021

Description: Inform on the Constitutional Court’s performance and available mechanisms for protection of the constitutionality and legality of laws and acts, and the constitutionally guaranteed human rights; Improve data collection through continuous monitoring and analyzing of the work of the Constitutional Court

Title: Support the modernisation of the operational ICT management and infrastructure in the Judiciary and Anticorruption sector

Donor: IPA III

Duration: 36 months

Description: Development of an integrated information management system for the Constitutional Court and a modern website allowing public access to the Court’s decision database.

Title: Human Rights for All

Duration: January 2020 – December 2020

Description: Providing protection against discrimination to marginalized groups, through their representation before the Commission for Prevention and Protection against Discrimination, Civil Courts, as well as before and through monitoring of the work of the Constitutional Court.

2 OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1 Global objective

The **global objective** of this project is to enhance the rule of law in the Republic of North Macedonia.⁶

2.2 Specific objective

The specific objective of this project is to strengthen the capacities and efficiency of the Constitutional Court to control the constitutionality and legality of adopted normative acts and the protection of fundamental rights.

Based on the above description of current situation in the sector, the project will provide technical assistance and advice to the CC to improve its professional and administrative capacities, administrative autonomy, independence, efficiency and transparency, as well as to improve the protection of the freedoms and rights of the individuals and the citizens in front of the CC. In particular, the project will seek to improve the managerial capacity of the court, enhance the human resources and strategic budgetary planning, help drafting on internal acts for improvement on the performance management in the court, organise trainings on the strategic planning, research, analysis and monitoring for the staff etc.

In the field of protection of the fundamental rights of the citizens, the project will prepare assessment of the overall current legal framework for protection of freedoms and rights in the country, analyse the needs and drafting amendments to the Rules of Procedure in the part on the procedure for protection of freedoms and rights; prepare trainings, manuals and guidelines for application of the legal acts and standards developed by the ECHR for protection of freedoms and rights of the citizens before the CC, prepare a Manual for protection of freedoms and rights before the CC etc. In addition, the project will support the extension of the review by the CC for the fundamental rights as included in the 1991 Constitution. It will contribute to increasing the operational capacity of the CC through trainings to stakeholders on how to use this increased practice for protection of the citizens' fundamental rights.

In a wider context, the project will support the Beneficiary country to ensure rule of law in the country and protection of the individual human rights.

2.3 Requested services, including suggested methodology⁷

The Contractor shall deliver Technical Assistance in line with the specific activities listed below. The following is not an exhaustive list of the activities that the project will undertake, but gives an indication on how to approach the project. **Tenderers are invited to propose their own approach to reaching the objectives and results stated in these Terms of Reference.** In all cases, the project's activities shall be practical in nature and will need to bring concrete and tangible results, and be sustainable beyond the duration of the project implementation period.

The project will have two different phases:

1. Inception phase;
2. Implementation phase

The technical proposal shall include an indicative work plan. During the inception phase, the Contractor must confirm, detail and if necessary revise the work plan, in cooperation with the beneficiaries and other stakeholders.

⁶ The global and specific objectives shall clarify that all EU funded actions must promote the cross-cutting objectives of the EC: environment and climate change, rights based approach, persons with disability, indigenous peoples and gender equality.

⁷ Contractors should describe how the action will contribute to the all cross cutting issues mentioned above and notably to the gender equality and the empowerment of women. This will include the communication action messages, materials and management structures.

Inception Phase

The Inception Phase will take 30 calendar days from the commencement date. During this period, the Contractor shall:

- Establish the project office;
- Recruit the project support staff;
- Meet the Beneficiaries and other stakeholders to be identified at the Inception phase to discuss the planned activities and the work plan;
- Meet other donors which carry out projects in related fields to ensure a comprehensive view on all on-going relevant projects and on-going reform initiatives;
- Meet civil society organisations active in the field;
- Revise, if necessary, the work plan (presented in the technical proposal), in close cooperation with the Beneficiaries and the EU Delegation (Contracting Authority).
- With a view to enhance awareness about and ensuring commitment to the project, the contractor is encouraged to organise a kick-off event involving the beneficiaries, the ministries and state administrative bodies concerned, and other relevant stakeholders following the EU visibility guidelines.

After 30 days of commencement, the Draft Inception report prepared in cooperation with the beneficiaries shall be submitted:

- The Draft Inception report shall comprise:
 - a. a report on the activities and results achieved in the Inception phase;
 - b. a work plan (if necessary modified as compared to the indicative work plan submitted in the technical proposal), including a timetable for the activities, a schedule for the achievement of the results, an input schedule and,
 - c. if necessary, a revised logical framework.
- The Final Inception Report shall be submitted within 7 days from receiving comments from the Contracting authority and Project Steering Committee. The final Inception report shall include/consider comments from the Steering Committee and from the Contracting Authority. The report must be approved by the EU Delegation as Contracting Authority.

Implementation phase

The project activities will be organized in two components:

Component 1: The professional and administrative capacities, administrative autonomy, independence and efficiency of the Constitutional Court is strengthened

Activities under Component 1 will include:

- Preparation of Analysis of the needs needs and drafting amendments to the Law on the Constitutional Court;
- Developing a sustainable human resources strategic planning, based on an analysis of needs and workload for the CC;
- Analysis of procedure and process of the Constitutional court;
- Developing on analysis of the budgetary independence of the CC;
- Strengthening the strategic and budgetary planning of the CC;
- Drafting on internal acts for improvement on the performance management in the court;
- Organization of trainings and roundtables on the strategic planning, research, analysis and monitoring for the staff;
- Preparation on a templates and guidelines for reasoning of the decisions of the CC;
- Preparation on training curricula for reasoning of the decisions;
- Three workshops realized for reasoning of the decisions of the CC;

- Assessment and preparation of recommendations for improvement of the archival work of the CC and IT system of internal processes;
- Preparation on a book with the selected decisions of the CC;
- Organisation of 2 Study visits in Member States country for developing comparative analyses and exchange of knowledge and experience;
- Development of curricula and programmes and conducting trainings for public relations;
- Developed template for preparation on CC annual reports;
- Strengthened the transparency of the Constitutional Court with reasoned and more detailed decisions publicly available.
- Assessment of the Case management system, electronic filing
- Assessment of the possibility for interoperability with other institutions
- Assessment of the web site of the CC and recommendation for upgrade/improvements

Component 2: The individual protection of the freedoms and rights of the individuals and the citizens in front the Constitutional Court is improved

Activities under Component 2:

- Preparation of Assessment of the overall current legal framework for protection of freedoms and rights in the country;
- Analysis of the needs and drafting amendments to the Rules of Procedure in the part on the procedure for protection of freedoms and rights;
- Trainings for application of the legal acts and standards developed by the ECHR for protection of freedoms and rights of the citizens before the Constitutional Court;
- Analysis of the needs and drafting of amendments of or new internal acts and procedures for acting upon requests for protection of freedoms and rights before the Constitutional Court;
- Training needs assessment, training curricula, programmes prepared and trainings delivered for protection of freedoms and rights of the citizens in front of the Constitutional court;
- Trainings for drafting decisions in the procedures for protection of freedoms and rights;
- Preparation of a Manual for protection of freedoms and rights before the Constitutional Court;
- Preparation on comparative analysis of individual protection for human freedoms and rights;
- Workshops with bodies and representatives of other professions for the procedure before the Constitutional Court for protection of human freedoms and rights;
- Training of other professions for Application
- Training of the ECHR case law before the Constitutional Court
- Public awareness activities for informing the public about the procedure for protection of the freedoms and rights of the citizens before the Constitutional Court.

Required Outputs:

Component 1: Strengthened professional and administrative capacities, administrative autonomy, independence and efficiency of the Constitutional Court (CC)

Output 1

- 1.1 Prepared analysis of the need to adopt a Law on the CC
- 1.2 Assessment report on the procedure and processes of the CC
- 1.3 Improved and strengthened strategic and budgetary planning of the CC

- Analysis and guidelines for strengthening the budgetary independence of the CC
- 1.4 Improved performance management of the court including:
 - Organization of trainings and roundtables on strategic planning, research, analysis and monitoring for the staff
 - Preparation of templates and guidelines for reasoning of the decisions of the CC
 - Preparation of training curricula for reasoning of the decisions
 - Organisation of three workshops for reasoning of the decisions of the CC
 - Drafting on internal acts for improvement on the performance management in the court
- 1.5 Developing a sustainable human resources strategic planning based on analysis of the needs and workload of the CC
- 1.6 Assessment and preparation of recommendations for improvement and digitalisation of the archival work of the CC
 - Preparation of a book with selected decisions of the CC
 - Organisation of two study visits in Member States for developing comparative knowledge and exchange of experience
- 1.7 Strengthened transparency of the CC
 - Guidelines for detailed reasoning, presenting and publicly sharing CC decisions
 - Developed template for preparation of the annual reports of the CC
- 1.8 Improved communication and Public relations activities of the CC
 - Development of curricula and programmes and conducting trainings for public relations
- 1.9 Assessment and preparation of recommendations for improvement of the ICT system of the CC
 - Assessment of the Case management system, electronic filing
 - Assessment of the possibility for interoperability with other institutions
 - Assessment of the web site of the CC and recommendation for upgrade/improvements

Component 2: Improved protection of the freedoms and rights of the individuals and the citizens in front of the Constitutional Court (CC)

Output 2

- 2.1 Assessment report of the present legal framework for protection of freedoms and rights in the country
- 2.2 Analysis of the procedure for protection of freedoms and rights within the Rules of Procedure of the CC
 - Drafting amendments to the Rules of Procedure for protection of freedoms and rights before the CC
 - Drafting of amendments or new internal acts and procedures for acting upon requests for protection of freedoms and rights before the CC
- 2.3 Preparation of a comparative analyses and a manual for the protection of freedoms and rights before the CC
 - Trainings for drafting decisions in the procedures for protection of freedoms and rights
 - Trainings for application of the legal acts and standards developed by the ECHR for protection of freedoms and rights of the citizens before the CC
 - Training of the ECHR case law before the CC

2.4 Workshops with bodies and representatives of other professions for the procedure before the CC for protection of human freedoms and rights

2.5 Public awareness activities for informing the public about the procedure for protection of the freedoms and rights of the citizens before the CC.

2 Language of the Specific Contract

The language of the contract is English. However, a number of project deliverables related to legislation (rules of procedures, amendments or new internal acts, bylaws, etc) will be translated into Macedonian language.

All written communication between the Contractor and/or Contracting Authority/Beneficiary and/or the project manager shall be in English.

3 Management team member presence required or not for briefing and/or debriefing

The presence of member(s) of the management team is not required for briefing or debriefing purposes

➤ Specific Contractor Organisation and Methodology (Technical offer)

The invited Framework Contractors will submit their specific Contract Organisation and Methodology by using the standard SIEA template B-VII-d-i and its annexes 1 and 2 (B-VII-d-ii).

The methodology proposed to undertake the assignment will be described in the Chapter 3 (Strategy and timetable of work) of the template B-VII-d-i. Contractors will describe how their proposed methodology will address the cross-cutting objectives of the EC: rights based approach, persons with disability, indigenous peoples and gender equality.

Project Management

The Delegation of the European Union to North Macedonia will appoint a member of its staff to act as Project Manager and another one as back up.

E-mail communication is to be considered as main channel of day-to-day communication and coordination with the Project Manager (including consultations, reporting, prior approvals, etc.).

Furthermore, the Team Leader shall meet regularly – at least once per month and when possible biweekly – with the Project Manager and discuss project status and issues. The Contractor shall prepare notes of these meetings and share them to the Project Manager for comments (if any) within 2 working days of the meeting. When it will not be possible meeting biweekly, the Team Leader shall send a concise project status note instead, by email.

The contractor will coordinate the contract activities with the final beneficiary institution, the Constitutional Court.

The Ministry of Justice represented by the IPA Coordinator in the Ministry of Justice will also be part of the project stakeholders. The NIPAC may also participate in monthly management meetings.

Further to the Requirements set in the article 6 of the Global Terms of Reference and in the Global Organisation and Methodology, respectively annexes II and III of the Framework contract SIEA 2018, the contractor is responsible for the quality of: the process; the design; the inputs and the outputs of the assignment. In particular, it will:

- Support the Team Leader in its role including the expert team, mainly from a team management perspective. In this regard, the contractor should make sure that, for each phase of the assignment, specific tasks and outputs for each team member are clearly defined and understood.
- Provide backstopping and quality control of the experts' work throughout the assignment.
- Ensure that the experts are adequately resourced to perform all required tasks within the time framework of the contract.
- Provide translation and interpretation during project implementation in order to maintain work efficiency.

The contract performance will be evaluated in relation to the expected results as specified in these Terms of Reference. The Contractor has full responsibility for overall contract performance, finances, expenditure and reports directly resulting from the project.

Management structure

The project beneficiary (Constitutional Court) will be represented by a project coordinator to support the technical implementation of the project. The beneficiaries shall notify the contracting authority for any difficulties in contract implementation, report on indicators and report on suspected or, detected irregularities.

Project steering committee - a project steering committee (PSC) will be established during the inception phase to supervise the project at the highest level. The role of the PSC shall entail provision of strategic, political and technical guidance to the project, monitoring progress and assistance where possible in overcoming any obstacles to progress in any aspect of the contract. The PSC will be chaired and convened by the main beneficiary institution, the Constitutional Court.

The PSC will comprise, but is not limited to the representatives from the following institutions:

- Constitutional Court
- Ministry of Justice
- Delegation of the European Union
- Secretariat for European Affairs (observer)

Full list of institutions represented in the PSC will be defined in the inception period.

The contractor, in co-ordination with the beneficiary, shall serve as a secretariat to the PSC and shall ensure the proper functioning of it. The development of an effective and efficient working relationship of the contractor with the PSC is important.

The role and main functions of the PSC will include:

- To assess project progress and monitor all activities of the project, as agreed in the contract for the delivery of technical assistance;
- To assess the performance of the contractor, review the inception report and all quarterly implementation reports, and make recommendations as appropriate to the contracting authority which will approve these reports;
- To jointly discuss any critical points or bottlenecks for further project implementation and to propose and discuss remedy actions to be taken in order to tackle problems;
- To guide the development and monitor the implementation of individual schedules or work-plans of the project, and jointly take decisions affecting timing, cost or project contents;
- To ensure close co-operation between the relevant institutions, social partner organisations, national authorities and other relevant actors.

The PSC will initially meet at the end of the inception phase to discuss the inception report and thereafter once every 6 months, as well as whenever any of its members deems it necessary.

The contractor will ensure proper functioning of the PSC, organising the meetings, preparing and circulating the agenda, writing and distributing the minutes, and follow-up/implementing the committee decisions. The date of the PSC meetings, the agenda and the necessary documents shall be set and circulated among the interested parties tentatively with a reasonable time in advance (i.e. approximately 10 days in advance). The contractor has to keep them in a file as project documentation. These tasks will be performed in coordination with the beneficiary.

Other meetings

Monthly meetings will be organised by the Contractor with the beneficiary institution's project coordinator, IPA Unit of the Ministry of Justice and Delegation of the European Union to regularly discuss the project implementation and progress.

Facilities to be provided by the contracting authority and/or other parties

The Contracting Authority or/and Project beneficiaries shall supply the Contractor promptly with any useful information and/or documentation which may be relevant to the performance of the Contract.

No facilities shall be provided by the Contracting Authority and other parties. The Contractor team shall provide with its own facilities.

The Beneficiary institution will provide the Contractor with access to all relevant data and facilities as necessary to conduct the activities.

4 LOGISTICS AND TIMING

Please refer to Part B of the Terms of Reference.

5 REQUIREMENTS

Please refer to Part B of the Terms of Reference.

Incidental expenditure

The provision for incidental expenditure covers ancillary and exceptional eligible expenditure incurred under this contract. It cannot be used for costs that should be covered by the Contractor as part of its fee rates, as defined above. Its use is governed by the provisions in the General Conditions and the notes in Annex V to the Contract. It covers:

- Indicatively 20 International travels
- Renting costs for conference/training rooms which cannot be provided by the beneficiary or the partner country. In case of renting, the facilities shall be fully equipped, including catering, and those costs included in the overall cost of the rental.
- Cost of training courses packages, including printing, copying of support documentation and training course materials.
- Translation costs for related training materials, as well as interpretation during training/workshops and conferences, translation of required project deliverables.
- Visibility publication cost, including translation of relevant and necessary documents and communication and visibility materials – leaflets, brochures, booklets, user manuals, conference materials, press release, visibility event, etc.
- Cost for awareness campaign.

- Costs related to the study visits, i.e. the usual costs incurred are travel, accommodation and meals. The Contractor will make available transport arrangements as air-travel tickets, inter-city transportation and airport transfers, accommodation (full board) for the participants and accompanying expert(s). The Contractor must book air travel tickets in economy class or equivalent, at the lowest available rates, taking into account the times of meetings and/or special features of the mission.

6 REPORTS

The contractor shall provide the reports in English in electronic version and translated in Macedonian language.

For all other matters relating to reports/deliverables, please refer to Part B of the Terms of Reference.

7 MONITORING AND EVALUATION

The Contractor will continuously monitor the project according to standard procedures (inception phase monitoring, periodic monitoring and final assessment). Project monitoring will be based on a periodic assessment of progress on delivery of specified project results and towards achievement of project objectives.

The Contracting Authority will monitor the project and ensure implementation in a timely and efficient manner, in particular through commenting on reports, and advising on progress on the delivery of specific project results and towards achievement of project results, supported as appropriate by on-site visits.

The PSC will be established to monitor the progress and outputs of the project, to provide project oversight and guidance for the project implementation, operating as Advisory Committee to the Contracting Authority.

This Terms of References are intended for a fee-based service contract and the monitoring of the progress is focused on the delivery on outputs and results, but also require *verification of delivery of resources* (verification of the input of experts and the delivery of services budgeted under incidental expenditures).

7.5 Definition of indicators

The following indicators must be met to confirm the successful achievement of the project results:

OBJECTIVELY VERIFIABLE INDICATORS	BASELINES (YEAR)	TARGETS (YEAR)	SOURCES & MEANS OF VERIFICATION
Rules of procedure of the Constitutional court amended after internal organisation improved	0 (2023)	1 (2025)	Project reports
Number of TNA	0 (2023)	1(2025)	Project report
Number of trainings	0 (2023)	≥ 3(2025)	Project report
Number of trained people (judges and professional staff)	0 (2023)	≥ 30(2025)	Project report
Number of workshops on reasoning of judgements	0 (2023)	≥ 3(2025)	Project report

Number of human resources strategic planning	0 (2023)	1(2025)	Project report
Number of Study visits	0 (2023)	2 (2025)	Project report
Number of templates for Annual report	0 (2023)	1(2025)	Project report
Number of procedures for archival of files	0 (2023)	1(2025)	Project report
Number of Assessment of the overall current legal framework for protection of freedoms and rights in the country	0 (2023)	1(2025)	Project report
Number of Manual for protection of freedoms and rights before the Constitutional Court	0 (2023)	1(2025)	Project report
Number of Judges trained on application of the legal acts and standards developed by the ECHR for protection of freedoms and rights of the citizens before the Constitutional Court	0 (2023)	≥ 9(2025)	Project report
Number of people reached with the awareness campaign on protection of human rights in front of the CC	0 (2023)	≥ 25,000(2025)	Project report

These indicators should be presented in a logical framework and can be reviewed during the Inception Period in consultation with the beneficiary, and confirmed by the Contracting Authority as part of the process of approval of the Inception Report

8 PRACTICAL INFORMATION

Please address any request for clarification and other communication to the following address(es): DELEGATION-NORTH-MACEDONIA-TENDERS@eeas.europa.eu

Office-running costs, which may include office rent, communications (fax, telecommunications, mail, courier etc.), report production, secretarial/administrative assistance, as well as the costs of other local support staff, backstopping from the Headquarters etc. shall be included in the unit rate. **fee based.**

➤ **Details regarding the tax-exoneration agreement and the administrative formalities for the FWC Contractor to obtain such exoneration**

Under no circumstances can duties and taxes, including VAT, be paid by the EU under this contract. The European Commission and Republic of North Macedonia have agreed in the Framework Agreement on the arrangements for implementation of Union financial assistance to the Beneficiary country under the Instrument for Pre-accession Assistance (IPA II) to exonerate contractors from taxes, customs and import duties and levies and/or charges having equivalent effect.

The Contractor is encouraged to register the project within the Central Donor Assistance Database (CDAD) in the Government, Secretariat for European Affairs, which is necessary for exemption from payment of Customs and other duties as well as for the reimbursement of VAT for the project needs. Furthermore, each EU funded project should be registered in the Central register at the protocol Department within the Ministry of Foreign Affairs (MFA) and the Public Revenue Office. The

registration of the project is the sole responsibility of the Contractor. Details on the tax exemption procedure can be found on the following link: <https://www.sep.gov.mk/EN/PAGE/?ID=34>

- **The Guidelines on Communication and Visibility for European Union External Actions set out the compulsory requirements for all contractors.**

The contractor must comply with the Guidelines on Communication and Visibility which are published by the European Commission at https://international-partnerships.ec.europa.eu/knowledge-hub/communicating-and-raising-eu-visibility-guidance-external-actions_en

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TERMS OF REFERENCE – PART B

BACKGROUND INFORMATION

1. Benefitting Zone

Republic of North Macedonia

2. Contracting authority

The European Union, represented by the European Commission, B-1049 Brussels, Belgium.

3. Contract language

English

LOCATION AND DURATION

4. Location

- Normal place of posting of the specific assignment: Skopje, North Macedonia
- Mission(s) outside the normal place of posting and duration(s): Missions related to 2 study tours in Member states.

5. Start date and period of implementation

The indicative start date is 18/09/2023 and the period of implementation of the contract will be 731 Day(s) from this date (indicative end date: 18/09/2025).

REQUIREMENTS

6. Expertise

The minimum requirements covered by the team of experts as a whole are detailed below:

- Qualifications and skills required for the team: Each of the experts shall have at least a Master's degree in law, or in its absence, general professional experience of at least 5 years above the required of additional professional experience in areas of work related to the constitutional law, human rights law and/or in information technology.
- General professional experience of the team: Each of the experts shall have at least 12 years of professional experience at international and/or national level in human rights/rule of law or in information technology
- Specific professional experience of the team: The expert team (as a whole) shall fulfil the below specific requirements: -At least one of the proposed experts must have minimum 4 years experience in areas of work related to constitutional and/or human rights. -Expertise in development of case management system - Management and/or implementation of judicial reforms; -Legal expertise related to the functioning of EU Member States Constitutional Courts or equivalent institution and/or on the functioning of European judicial systems;

-Experience with the individual application systems and/or experience with cases at the ECHR; -Experience in drafting of guidelines /manuals, capacity-building, public relations, national legal framework and law making process, case management system. -Experience in drafting Rules of procedures, analytical researches, drafting assessments, comparative analysis, decisions, -At least 1 project as Team Leader or Deputy Team Leader of EU funded project for reform of judiciary and/or performance management of judiciary or in related area; -Experience in the field of training for legal professionals would be an asset; -Knowledge about the national judicial system in North Macedonia would be an asset -Knowledge about the judicial system and major issues related to human rights in North Macedonia would be an asset.

- Language skills of the team: Each experts must possess at least a level C1 expertise in English. Knowledge of Macedonian would be an asset.

Additional expertise requirements for the team composition:

Position	Expert category	Minimum requirements	Minimum number of working days	Additional information
Expert	Cat. I (>12 years of experience)		815	These requirements shall be fulfilled by minimum 3 (three) proposed senior legal experts, however it does not necessarily mean that each expert shall have experience in each of the areas mentioned above. One of the experts will act as Team leader of this project. He/she will be responsible for overall project management and coordination, project representation, as well as reporting. He/she should ensure that the project outputs and reporting requirements are timely fulfilled.

Position	Expert category	Minimum requirements	Minimum number of working days	Additional information
				He/she shall be required to coordinate, supervise, manage, monitor and apprise all aspects of the projects experts' output.

7. Incidental expenditure

The provision for incidental expenditure covers ancillary and exceptional eligible expenditure incurred under this contract. It cannot be used for costs that should be covered by the contractor as part of its fee rates, as defined above. Its use covers:

The provision for incidental expenditure for this contract is EUR 70000. This amount must be included unchanged in the budget breakdown.

If applicable, see part A of the Terms of Reference for more details on the use of the incidental expenditure.

8. Lump sums

No lump sums provided for in this contract.

9. Expenditure verification

An expenditure verification report is required for final payment only.

The provision for expenditure verification covers the fees of the auditor charged with verifying the expenditure of this contract in order for the contracting authority to check that the invoices submitted are due.

Tenderers are required to indicate, in their "Organisation and Methodology", the name and address of the proposed auditor or audit firm that will be in charge of producing the expenditure verification report(s).

The provision for expenditure verification for this contract is EUR 10,000. This amount must be included unchanged in the budget breakdown.

Comment: The provision for expenditure verification covers the fees of the auditor in charge verifying the expenditure of this contract in order for the contracting authority to check that the invoices submitted are due.

10. Other items defined by Contracting Authority

No other items provided for in this contract.

REPORTS AND DELIVERABLES

11. Reports and deliverables requirements

Title	Content	Language	Submission timing or deadline
Inception Report	Analysis of existing situation and work plan for the project	English	Within 1 Month(s) After the project start
Monthly Project Briefs	Shall report: activities, deliverables, inputs of expert's problems, activities in the next reporting period, etc.	English	Every 1 Month(s)
Progress report	Short description of progress (technical and financial) including problems encountered; planned work for the next 6 months accompanied by an invoice. These reports, among others shall consist of: summarise in detail project progress including comparison of achievements against planned activities and overall progress against the initial timetable; compare actual versus projected working days per individual expert and incidental expenditure per activity in spread sheet format and reasons for any deviation; describe difficulties encountered and corrective measures taken; describe results accomplished; describe resources utilised during the reporting period; provide	English	Every 6 Month(s)

Title	Content	Language	Submission timing or deadline
	<p>recommendations, requests and plans for the project activities for the forthcoming period; describe cross-cutting initiatives undertaken in the reporting period; provide other information as specified by the Contracting Authority.</p>		
Draft final report	<p>Short description of achievements including problems encountered and recommendations. The draft final report shall include as a minimum: • a complete overview of all activities implemented during the project; • a summary of outputs, and a critical study of any major problems, which may have arisen during the performance of the Contract, with recommendations regarding resolving similar problems in the future and proposals for future actions; • an assessment of the outcomes of the project measured against the stated project objectives and the indicators of achievement; • an assessment of cross-cutting issues in all aspects of the project</p>	English	Within 1 Month(s) Before the project end

Title	Content	Language	Submission timing or deadline
	implementation. • provide other information as specified by the Contracting Authority		
Final report	<ul style="list-style-type: none"> • Short description of achievements including problems encountered and recommendations; a final invoice and the financial report accompanied by the expenditure verification report • The final report shall include: <ul style="list-style-type: none"> • a complete overview of all activities implemented during the project; • a summary of outputs, and a critical study of any major problems, which may have arisen during the performance of the Contract, with recommendations regarding resolving similar problems in the future and proposals for future actions; • an assessment of the outcomes of the project measured against the stated project objectives and the indicators of achievement; • an assessment of cross-cutting issues in all aspects of the project implementation. • provide other information as specified by 	English	Within 1 Month(s) Before the project end

Title	Content	Language	Submission timing or deadline
	<p>the Contracting Authority. The Final Report shall also include a complete financial statement for the activities undertaken, proposals for future actions. The Final Report shall include all previously approved report.</p>		