Call for a research assignment on post legislative scrutiny analysis- Parliament of Montenegro

TERM OF REFERENCE
January 2020
**1. Introduction**

Westminster Foundation for Democracy (WFD) is a non-departmental public body sponsored by the Foreign and Commonwealth Office (FCO). With over 25 years’ experience of supporting democracy around the world, WFD’s strategic plan elaborates our expertise and approach to supporting political parties, parliaments, civil society and electoral processes.

WFD is currently implementing a thirty-month programme which is aiming on establishing a human rights and gender equality network of parliamentary committees in the Western Balkan region and enhancing their oversight capacities. The programme is supported by the Norwegian Ministry of Foreign Affairs and it is including parliamentary committees from eight parliaments from the Western Balkans region.

Direct beneficiaries of the programme are 8 parliaments in Western Balkan region (members of parliament and parliamentary staff). Indirect beneficiaries are the vulnerable groups whose human rights are in jeopardy of being violated, CSOs as well as general population of the Western Balkan region.

Under this programme WFD aims to:

- Establish a network of parliamentary committees from eight parliaments;
- Develop mechanisms for regional parliamentary cooperation on human rights and gender issues in Western Balkan region;
- Develop training resources for conducting and improving committee oversight practices and establish post legislative scrutiny mechanisms and gender law audit practices;
- Implement an extensive training programme for MPs and parliamentary staff in order to build up capacity for parliamentary oversight and monitoring the implementation of gender laws and human rights;
- Conduct audit of gender laws and human rights policies and share case studies and best practices.

On 8th of October, Human Rights and Gender Equality Network of Committees in the Western Balkan (HUGEN) has been officially launched during the regional parliamentary conference which was organized in Cetinje, Montenegro. HUGEN Network has representatives from eight participating parliaments and 15 human rights and gender equality committees from the Western Balkan region.

HUGEN Network has a Board which is guiding and steering the Network’s work. Board is consisted of chairpersons/deputy chairpersons of the human rights and gender equality committees who are participating in the work of the HUGEN Network. Board was formed on a board meeting which was organized on 7th of October in Podgorica, Montenegro.

During the second meeting of the Board it was decided that the HUGEN Network will support post legislative scrutiny (PLS) pilot projects and PLS reports for all eight participating parliaments which are members of the Network.
In order to begin with the PLS process a three-day certified course on PLS was organized from 18th to 20th of November in Belgrade, Serbia. Curriculum was prepared by a multi-disciplinary and international team of academics and parliamentary development specialists. Professors from Institute of Advanced Legal Studies from University of London were holding the lectures and sessions.

2. Objectives

While parliaments devote a large part of their human and financial resources to the process of adopting legislation, it is not uncommon that they overlook the review of implementation of legislation.

WFD is launching a PLS pilot projects, in the Western Balkan region, in cooperation with participating parliaments of the HUGEN Network in order to analyze the status of implementation of specific legislation which is being implemented in the past three to five years.

The specific purpose of the assignment is to provide analysis of implementation of legislation which was determined by participating parliaments from the HUGEN Network.

For the purpose of this research assignment the act of evaluating laws that a parliament has passed is known as post legislative scrutiny. Each post-legislative scrutiny process needs to result in a report. Therefore, post legislative scrutiny report needs to provide an accurate summary of the information and data collected, findings and recommendations.

3. Key aspects relevant to the ToR

During their work, candidates will be in communication with point of contact in front of participating parliament of the HUGEN Network.

The Committee on Human Rights and Freedoms from Parliament of Montenegro has selected the Law on Prohibition of Discrimination of Persons with Disabilities to be the subject of the post-legislative scrutiny (hereinafter PLS) process. Law was adopted by the Parliament of Montenegro at the seventh session of the first regular (spring) session in 2015 on 26th of June 2015. The Law on Prohibition of Discrimination of Person with Disabilities (hereinafter Law) was published in the Official Gazette of Montenegro, number 35/15.

In the EU accession process and in the line with international obligations and aspirations, Montenegro has made significant legislative changes in order to align legislation with European legislation and international standards. Furthermore, Montenegro has established an institutional framework for the protection of human rights and freedoms. Assessments of all relevant organizations are that the
Montenegrin legislation is generally good and that in the coming period special attention should be pointed toward improving implementation of quality legal solutions. Also, the European Commission Report on Montenegro for 2019 states that Montenegro should “ensure effective implementation of policies in the field of fundamental rights and gender equality, the rights of the child and the rights of the Roma people, as well as the rights of persons with disabilities, by providing sufficient budgetary resources for implementing policies, improving capacities of competent institutions and increasing their inter-institutional coordination.”

Following the Conclusion from Parliament of Montenegro, in September 2016, the Government of Montenegro has adopted an Analysis of the Compliance of the Legislation in Montenegro with the Law on Prohibition of Discrimination of Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities. Out of 59 laws analysed, recommendations were made for the alignment of 34 laws.

In order to monitor the implementation of the Law and the Conclusion from Parliament of Montenegro, at its 48th session, on 11th December 2019, Committee on Human Rights and Freedoms organized a control/oversight hearing of Minister of Human and Minority Rights Mehmed Zenka and Minister of Public Administration. At the control hearing it was stated that only nine laws have been harmonized so far: Law on Road Transport, Law on Civil Procedure, Law on Amendments to the Criminal Code of Montenegro, General Law on Education, Law on Primary Education, Law on High School, Law on Vocational Education, the Law on Higher Education and the Consumer Protection Law.

Candidates should provide particularly an overview of the following aspects of selected legislation:

- Analyse the implementation of Article 21 of the Law; Determine factual situation from the standpoint of respect for the rights of persons with disabilities, in particular case, children in upbringing, education and vocational training;
- Analyse the extent to which persons with disabilities are enabled to: choose educational program and enrolment and access and stay in educational institution, in accordance with its possibilities; Attend classes and knowledge verification, as well as participation in other educational activities, including also participation in extracurricular activities and competitions;
- Scrutinize to what extent and scope, special measures for establishing and providing individualized support for unobstructed monitoring of teaching and knowledge verification are implemented, as well as participation in other educational and learning activities, including participation in extracurricular activities and competitions.

4. Timeline

Candidate should be able to commence its work on 25th of January 2020 and the PLS report should be finalized by 30th of April 2020. All relevant documentations as well as the PLS report should be submitted in English to WFD.
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<th>Deliverable</th>
<th>Description</th>
<th>Deadline</th>
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<tr>
<td>Providing list of relevant identified stakeholders</td>
<td>Identify relevant governmental agencies and institutions, other public bodies as well as other relevant stakeholders (academic institutions, professors, individual experts, CSOs and etc)</td>
<td>English version of the list should be provided to <a href="mailto:ivan.radojevic@wfd.org">ivan.radojevic@wfd.org</a> and <a href="mailto:nevenka.stankovic@wfd.org">nevenka.stankovic@wfd.org</a> by COB on February 3rd, 2020</td>
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<td>Providing brief analyses of the collected information and data as well as effect of secondary legislation</td>
<td>Collecting background information and data and reviewing the effects of delegated/secondary legislation.</td>
<td>English version of the analyses should be provided to <a href="mailto:ivan.radojevic@wfd.org">ivan.radojevic@wfd.org</a> and <a href="mailto:nevenka.stankovic@wfd.org">nevenka.stankovic@wfd.org</a> by COB on February 14th, 2020</td>
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<td>Providing brief report on the consultations process (who was consulted, main point of the consultation-bullet points, key aspects of received inputs)</td>
<td>Direct consultation with identified stakeholders</td>
<td>English version of the brief report should be provided to <a href="mailto:ivan.radojevic@wfd.org">ivan.radojevic@wfd.org</a> and <a href="mailto:nevenka.stankovic@wfd.org">nevenka.stankovic@wfd.org</a> by COB on March 13th, 2020</td>
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<td>Draft version of the PLS report</td>
<td>Analysis of PLS findings and writing the report (with recommendations and actions for improving the current status- if applicable)</td>
<td>English version of the PLS report should be provided to <a href="mailto:ivan.radojevic@wfd.org">ivan.radojevic@wfd.org</a> and <a href="mailto:nevenka.stankovic@wfd.org">nevenka.stankovic@wfd.org</a> by COB on April 10th, 2020</td>
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<td>Participating parliament/committees and WFD provides feedback</td>
<td>Participating parliaments/committees as well as WFD will respond and provide comments to the draft version of the PLS report</td>
<td>April 22nd, 2020</td>
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5. Key Deliverables

- The consultant/s is expected to collect necessary information and data in order to deliver the PLS report;
- The consultant/s is expected to organize direct consultation with identified stakeholders in order investigate the state of implementation of selected legislation;
- The consultant/s is expected to deliver a final version of the PLS report of the selected legislation with recommendations and joint actions (60 pages maximum);
- The consultant is expected to participate at the meeting/session in order to present and discuss the findings from the PLS report and to prepare a Power Point presentation with key findings from the report for the meeting/session.

6. Budget

- The budget for writing the PLS report for selected legislation is a maximum of 4,500 EURO (inclusive of taxes);
- All travel expenses and costs related to meetings/consultations shall be borne/carried by the candidate.

7. Application details and eligibility criteria
Interested eligible candidates should express their interest for this proposal by providing a CV of the consultant/s (in English) which will be conducting and writing the PLS report. In case of organizations, document which will be listing the experience of the organisation, relevant for this report should be prepared (in English).

Eligible candidates for this call are all interested individuals and organizations from the Western Balkan region (consultants, think-tanks, CSOs, faculties, institutes, etc).

- Relevant experience in human rights or gender equality topics;
- Significant experience in drafting analyses, researches, policy papers, related to discrimination and preventing discrimination;
- Previously gained experience in working with parliaments;
- Knowledge and general understanding of the PLS process.

Please note that supporting document must include following information:

- Contact details of the candidate;
- Budget proposal.

An email with your expression of interest and supporting relevant documents should be sent to Nevenka Stankovic (nevenka.stankovic@wfd.org) at the latest by 25th of January, 2020.