TERMS OF REFERENCE

GUIDE ON POST-LEGISLATIVE SCRUTINY OF CLIMATE AND ENVIRONMENT LEGISLATION

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<tr>
<th>Title:</th>
<th>Guide on PLS of climate and environment legislation</th>
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<td>Project location:</td>
<td>Home-based</td>
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<td>16 November 2020 – 23:59 h. (UK time)</td>
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<td>1 December 2020</td>
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<td>End of contract:</td>
<td>10 February 2021</td>
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<td>Contract value:</td>
<td>Up to 6,000 GBP max.</td>
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CONTEXT

WFD works with parliaments, political parties, and civil society groups as well as on elections to help make countries’ political systems fairer and more inclusive, accountable and transparent.

Recognising that there are strong linkages between the urgent action needed to address climate and environmental crises and action to strengthen democracy, WFD has recently launched an Environmental Democracy Initiative.

Given its existing relationships, capabilities and access to critical political actors, WFD’s work on Environmental Democracy prioritises the following:

- **Environmental coalitions for change.** Whilst approaches to environmental protection vary widely around the world, evidence shows that a vibrant and engaged environmental civil society sector is crucial for supporting governments to make responsible policy decisions on the environment.

- **Open data on the environment.** Parliaments, civil society, and government can generate greater commitment to opening up government data as it relates to the environment, and to investing additional resource in the generation of environmental data.

- **The passage and enforcement of environmental laws and treaties.** Robust and effective environmental legislation is required to address climate change and environmental degradation. In order to achieve impact, international commitments must be translated into regional, national, and sub-national laws and regulations. Proper implementation and enforcement of environmental legislation requires political will, the allocation of adequate resources and a degree of political independence for relevant oversight and enforcement institutions.
• *Political parties and environmentalism.* Many political parties around the world have an underwhelming record of addressing environmental issues in their policies, manifestos, and campaign messages, and once in power rarely deliver substantive change. However, environmental messages are becoming more important to voters.

• *Environmental rights.* As indigenous people, youth, women and economically disadvantaged groups are disproportionately excluded from important decision-making processes on the environment, there is need for a new inclusive view of environmental rights.

• *Natural resource management.* Providing access to clean and sustainable resources and their equitable distribution within society are crucial elements of legitimate democratic governance.

• *Research on Environmental Democracy.* While the concept of Environmental Democracy has existed for over two decades, there have been remarkably few efforts to operationalise it from a democracy support perspective via targeted programming.

As parliaments start to pay more attention to their responsibility to monitor the extent to which the laws they have passed are implemented as intended and have the expected impact, [Post-Legislative Scrutiny](#) (PLS) is emerging as a new dimension within the oversight role of parliament.

PLS has been defined in different ways in different jurisdictions. Furthermore, in some cases it is carried out, but without being styled as post-legislative scrutiny. The term itself is only now beginning to gain some recognition. In a narrow interpretation, PLS looks at the enactment of the law, whether the legal provisions of the law have been brought into force, how courts have interpreted the law and how legal practitioners and citizens have used the law. In a broader sense, PLS looks at the impact of legislation, namely whether the policy objectives of the law have been met and how effectively.

There are four overarching reasons why parliaments should prioritize the monitoring and evaluation of the implementation of legislation: (1) to ensure that the requirements of democratic governance and the need to implement legislation in accordance with the principles of legality and legal certainty are being met; (2) to enable the adverse effects of new legislation to be apprehended more timely and readily; (3) to improve the focus on implementation and delivery of policy aims; and (4) to identify and disseminate good practice so that lessons may be drawn from the successes and failures revealed by this scrutiny.

Since 2017, WFD works with partnering parliaments to help expand their capacity to review how legislation has worked in practice. WFD published different knowledge products and methodological guidance on PLS. The publications support WFD activities and meetings to engage parliamentary staff and legislators around the globe.

**SCOPE OF WORK**

Building upon the current, generic documentation on PLS, the purpose of this assignment is to develop a new Guide outlining an approach to assessing the implementation and the impact of climate and environmental legislation adopted and in force at national level. PLS on climate and environmental legislation poses specific challenges, owing not only to a lack of data, but to, inter alia, the increasing complexity and the need for oversight coordination which is intrinsic to the much-needed mainstreaming of climate and environmental considerations across sectors and government departments such as energy, infrastructure,
agriculture and economics. This mainstreaming is expected to extend to virtually all government departments, in keeping with the integration of climate and environmental targets across the Sustainable Development Goals (SDGs).

The guide will cover the main challenges for the exercise of effective PLS, how to select relevant pieces of legislation on climate and the environment for impact assessment, how to identify and review the role of authorities in charge for implementation and enforcement of the legislation, how to collect and analyse data relevant to the specific legislation, how to determine the timeframe of the PLS process, how to conduct a stakeholder consultation related to the scope of the legislation and who are relevant stakeholders in the sector of climate/ environmental legislation, how to take stock of international instruments and climate and environmental commitments related to the PLS of the identified law, etc.

Pending further analysis, the document may also include guiding principles for ex-post impact assessment of climate and environmental legislation.

The guide will mainly focus on how to oversee the effectiveness of national legislation on the environment, while taking into account that in some countries environmental laws are outdated and not aligned with the delivery of national objectives and commitments under the major multilateral conventions on the environment (e.g. the UN Convention on Biological Diversity, the UN Convention to Combat Desertification, and the UN Convention on Climate Change and the Nationally Determined Contributions under the Paris Agreement), nor under the UN Agenda 2030 and the SDGs.

The target audience for this guide are parliamentary committees on environment and climate change, parliamentary research centres, policy makers, environmental CSOs and activists, and other interested individuals and groups.

**DELIVERABLE**

A 20- to 30-page guide, in English, on PLS of climate and environment legislation for use by parliaments, policy makers and other interested stakeholders.

The guide will build upon and adapt the Guide for Parliaments on Post-Legislative Scrutiny, and consider how different legal systems impact environmental governance.

The guide will include a bibliography of (academic, policy and practitioners) resources on legislative impact assessment as considered relevant from a climate and environment-perspective. The bibliography should prioritize on and include the hyperlinks to oneline accessible resources.

The guide will be piloted with WFD programme countries and consideration should be given to operationalising it through remote / hybrid delivery during the COVID-19 pandemic.

**METHODOLOGY**

- The guide will be developed based upon desk research, primarily, with additional input emerging from a questionnaire distributed to WFD country offices.
- The consultant will develop the guide in cooperation with an international reference group, which is expected to hold two meetings during the time of the project.
- The consultant will prepare a workplan within 2 weeks of the start of the assignment.
- The process will be overseen by the WFD Environmental Democracy Adviser and the WFD Senior Governance Adviser.
QUALIFICATIONS OF EXPERT

Relevant work experience:
- Work experience in / understanding of legislative processes in parliament;
- Work experience in / understanding of environmental policy making;
- Understanding of legislative impact analysis and how legislation is enacted and enforced in different legal systems;
- Experience in analysing environment or climate legislation;
- Familiarity working with politically active civil society;
- Experience developing training materials and resources.

Technical and functional competencies:
- Excellent analytical, research and writing skills;
- Commitment to environmental protection and climate change adaptation;
- Excellent organisational skills;
- Understanding of adult learning and instruction delivery techniques;
- Familiarity with results-based programme management.

REFERENCE RESOURCES
De Vrieze F. (2020), Post-legislative scrutiny in Europe: how the oversight on implementation of legislation by parliaments in Europe is getting stronger, WFD

APPLICATION
Interested candidates can submit their application, including:
- Application letter
- CV, incl. 2 reference persons
- Short paper (between 1,000 and 1,500 words) with proposed methodology and comments on substance of the assignment
- Financial proposal [up to 6,000 GBP max.]
- Sample of recent publication or written consultancy output.

Send to: rafael.jimenezaybar@wfd.org
by Monday 16 November 2020, 23:59 h. (UK time).