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| TERMS OF REFERENCE Consultancy on provision of support for the Juvenile Justice Reform in Bulgaria |
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Start date of consultancy: 01.06.2018
End date of consultancy: 31.01.2019
Total consultancy days: Up to 60 days

1. Background.

The process of reform of the Juvenile Justice system is ongoing in Bulgaria for over a decade with no definitive results. More than 25 years after Bulgaria ratified the UN Convention on the Rights of the Child the legislative and institutional framework related to children in conflict with the law, children under the minimum age of criminal responsibility and children who have committed status offences still does not comply with the standards set in the Convention and other international and European instruments. The current legal and administrative frameworks regulate several systems - judicial, administrative, and child protection, which act simultaneously and in parallel being unable to offer coordinated response and guarantee the best interests of the child.

Gaps and inconsistencies in legislation lead to violations of child rights, arbitrary deprivation of liberty, disregarding the principles of last resort and for the minimum period of time. The lack of procedure for periodic review of detention, further impedes the chances of resocialization and creates situations that lead to violations of the rights to education, healthcare, access to justice and social services. All of these and many other issues related to the juvenile justice system in Bulgaria have been pointed out in observations and recommendations of national and international human rights bodies, including the UN Committee on the Rights of the Child.

Since 2011, the government launched initiatives for reform in the juvenile justice system and improving children's access to justice. The main focus in this process is on the most vulnerable groups of children in contact with the judicial system: children in conflict with the law, children below the minimum age of criminal responsibility, children who have committed status offences, children – victims and witnesses of violence and crimes. An important step towards the implementation of a comprehensive approach to juvenile justice are the new draft on juvenile justice and the amendments and supplements to the Penal Code (PC) and the Penal Procedure Code (PPC) initiated by the Ministry of Justice and supported by UNICEF. The draft Act on Diversion from Criminal Proceedings and Implementation of Educational Measures introduces the guiding principles for working with adolescents in conflict with the law and the guarantees of due process. Despite the fact that the work on the draft has been on-going in a working group convened by the Ministry of Justice since 2013, the act is currently not adopted by the Council of Ministers and sent to Parliament.

2. UNICEF's Role.

During the implementation of country program 2013 - 2017 juvenile justice reform has been one of the key areas of UNICEF support, focused on improving the legal framework, policies and planning, allocation of funds, inter-sectoral and institutional coordination and developing capacities at national, regional and local level. Certain progress was achieved on different levels, including the development of proposal for changes in the legal and institutional framework which are regulated by the Draft Act on Diversion from Criminal Proceedings and Implementation of Educational Measures.

Currently, UNICEF Bulgaria is in the first year of implementation of the Country Programme for the period 2018-2022. The overall goal of the country partnership is to support Bulgaria in its efforts to enable all children and adolescents in the country, including the most disadvantaged, to enjoy their rights and develop to their full potential in an inclusive and protective society, in line with the Convention on the Rights of the Child and the observations of the Committee on the Rights of the Child. One of the program priorities focuses on the provision of support for the completion of the reform of the juvenile justice system in Bulgaria and the adoption of the new legislation.

3. Purpose and tasks of assignment.

The overall goal of the assignment is to support UNICEF in strengthening its support and the provision of technical assistance for the process of juvenile justice reform in Bulgaria.

The specific tasks of the assignment include:

1. Review, provision of feedback and suggestions for amendments to texts of the Draft Diversion and Implementation of Educational Measures Act which should include:
 - Legal analysis of the gaps and inconsistencies, if any, with the draft act, the Penal Procedure Code and the Penal Code;
 - Legal analysis and recommendations for amendments of the texts, if needed, in line with international standards in the area of juvenile justice;
 - Legal analysis and recommendations for amendments of the texts, if needed, in line with Directive 2016/800/EU of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.
2. Review and provision of feedback on statements of key stakeholders with regard to the texts of the Diversion and Implementation of Educational Measures Act as per UNICEF request;
3. Draft expert statements on issues related to the situation and treatment of children who have committed status offences, children under the minimum age of criminal responsibility who have committed criminal offences;
4. Support the conduct of analyses related to children in conflict with the law and possible legal interventions;
5. Review, compile and provide information on good international practices for treatment and support of children who have committed status offences, children under the minimum age of criminal responsibility who have committed criminal offences and adolescents in conflict with the law;
6. Support UNICEF for the implementation of interventions related to children in detention;
7. Support UNICEF for the implementation of communication initiatives related to children in conflict with the law;
8. Support for the formulation of specific intervention(s) related to the advocacy for the adoption of the Diversion and Implementation of Educational Measures Act to be implemented by UNICEF and partners.

4. Expected deliverables.

The consultant will be assigned multiple tasks, which will be completed in the process of implementation of different UNICEF interventions in the provision of technical assistance for the juvenile justice reform in Bulgaria and will provide deliverables as required.

5. Timeframe and duration of the consultancy.

The consultant will be contracted for the period 1st of June – 31 December 2018. Travel costs will be covered separately as per UNICEF rules and standards.

6. Remuneration and total estimated cost for completion of the assignment.

The remuneration will be based on a consultancy fee per day. Payments will be made upon submission of a timesheet and written certification by the Supervisor of timely and satisfactorily provision of consultancy services provided.

In addition, a lump sum will be paid for in-country travel, if needed.

7. Qualifications/experience required.

The consultant needs to have the following competencies/qualification:

- Advanced degree in law;
- Extensive knowledge on child rights and of international practices related to the organization and administration of the justice in matters involving adolescents in conflict with the law;
- Good knowledge of the legal and institutional framework of the child protection system, justice system, juvenile justice system, judicial and administrative structures including recent developments in the area of juvenile justice in Bulgaria, EU and worldwide;
- Excellent analytical skills and conceptual abilities;
- Excellent command of English language.

8. Monitoring and evaluation.

The selected consultant will work under the direct supervision of the UNICEF Access to Justice Officer.

Performance indicators

The performance will be evaluated against the following criteria: timeliness, responsibility, initiative, communication and quality of the products delivered.

UNICEF recourse in the case of unsatisfactory performance

In case of unsatisfactory performance, the contract will be terminated by notification letter sent 5 days prior to termination.