



Terms of Reference – Consultant CT PHARE Platform for HumAn Rights Engagement

About the IIJ

The International Institute for Justice and the Rule of Law (IIJ) is a multinational organisation focused on building the capacity of justice practitioners to fight terrorism, violent extremism and transnational crime in line with human rights and the rule of law. It designs and delivers tailored training and capacity-building programmes as well as activities that help governments and practitioners address—in a practical, effective and collaborative manner—the evolving nature of contemporary transnational threats. The IIJ was founded in 2014 and has a Governing Board of Administrators consisting of 12 states and the European Union. For more information, visit the IIJ website: <https://theijj.org/>.

The IIJ requires the services of a Research Consultant to assist with the assessment of the survey's result on the practical use of Good Practice 5 of *The Hague Memorandum* on the rights of the accused to a fair trial and of Good Practice 7 of *The Rabat Memorandum* on the lawful exercise of pre-trial detention of terrorist suspects, as part of the IIJ CT PHARE project - *Platform for Human Rights Engagement* and the 2022-2024 Italian and Nigerian co-chairmanship of the Global Counterterrorism Forum (GCTF) Criminal Justice and Rule of Law Working Group (CJ-RoL WG), of which the IIJ is the implementing partner.

Background of the Consultancy

In the campaign to protect their populations and territory from the violence and upheaval caused by terrorism, many countries have adopted counter-terrorism measures designed to increase law enforcement and military powers and toughen criminal codes. Unfortunately, many of these measures have had a substantial negative impact on human rights, not only violating substantive and procedural protections, but contributing to the shrinking of civil space and fuelling the anti-government sentiment that is a key driver of radicalisation.

In this context, and in support of the [Council Conclusions on EU External Action on Preventing and Countering Terrorism and Violent Extremism of June 2020](#), the IIJ has launched the CT PHARE facility, funded by the European Union's Service for Foreign Policy Instruments (FPI), with the specific objective to increase the degree to which states' counterterrorism policies, legislation, and judicial strategies, in addition to day-to-day investigation and prosecution practices, comply with internationally-recognised human rights standards – both on the policy and the operational levels.

Among the activities, the IIJ has developed a survey in GCTF countries and other UN Member States, assessing the practical use of Good Practice 5 of *The Hague Memorandum*, which states that judges and trial courts should support the rights of the accused to a fair trial with adequate legal representation. In addition, certain evaluated practices were drawn from the interrelated Good Practice 7 of *The Rabat Memorandum*.

This survey offers justice sector stakeholders a direct channel to provide input to the GCTF on how fair trial is being respected in a counter-terrorism context. At the same time, data collected through the survey will help the GCTF, the IIJ, and partner institutions to map perceived fair trial vulnerabilities and identify focal areas where the fairness of counter-terrorism trials can be improved moving forward. Finally, the survey will establish a baseline to measure eventual progress in the implementation of fair trial good practices.

The IIJ, therefore, is currently seeking for a Research Consultant to provide support for the assessment of the survey's result.

Key tasks and deliverables

Under the overall guidance of the IIJ Executive Secretary, the Research Consultant will work closely with the Project Lead and the Project Manager in charge of the implementation of CT PHARE.

The Consultant will entail the following:

1. Based on the survey's responses, assess the countries' and regions' level of compliance with Good Practice 5 of *The Hague Memorandum* and Good Practice 7 of *The Rabat Memorandum* through the review of existing legal frameworks, their application and/or gaps in protecting the rights of the accused in terrorism cases.
2. Present the Final Deliverable, a proof-read report including the survey assessment, the survey methodology, recommendations and action points¹ aimed at improving the use of Good Practices 5 and 7. The draft of this report should first be approved by the IIJ, the GCTF CJ-RoL WG and the FPI. The IIJ CT PHARE team will then return to the Consultant with any comments for incorporation.
3. Provide regular updates throughout the period of the consultancy, at least weekly, directly via email or via a call to the CT PHARE team.

Breakdown of effort required

The consultancy will start in September 2023 for a period of 16 working days (spread over three months). No field visits should be required for the survey.

Final Deliverables

The Survey which the Consultant will produce, will meet the following criteria, with any deviations subject to agreement by the IIJ:

- Covering the following subject areas by countries and/or regions:
 - A detailed analysis on the level of compliance with Good Practices 5 and 7 to ensure effective legal representation for those charged with terrorism offenses in all critical phases of court proceedings,
 - A description of good practices, gaps and challenges related to the working procedures of criminal prosecutions related to terrorism cases, and
 - Containing concrete recommendations and action points for policy, procedural, and legislative actions aimed at improving the use of Good Practices 5 and 7;

¹ Action points may become the basis of a technical assistance programme to be implemented in coordination with the GCTF regional working groups, relevant UN partners and civil society organisations.

- Reflecting and referring explicitly to:
 - Existing good practices documents produced by the GCTF, and
 - As well as other relevant European and international documents and frameworks;
- Appropriate for use in training prosecutors, criminal justice practitioners, policymakers and other relevant stakeholders in their ongoing work on the rights of the accused to a fair trial, thus assisting them in their day-to-day activities.

Consultant profile – Skills and competencies required

The Consultant will have the following qualifications:

- At least 8 years of experience as a practitioner or legal researcher in the field of criminal prosecutions and fair trial;
- Direct experience with investigations and prosecutions of terrorism cases;
- A proven track record of publications in the field of terrorism studies;
- Excellent writing, research, analytical, and conceptual abilities;
- Excellent knowledge of both spoken and written English. Knowledge of Arabic and French is considered an asset.