



Terms of Reference – Consultant

Preparing a legal gap analysis of Somalia's legal framework on international judicial cooperation under the project "Building Strong Procedural Mechanisms for Mutual Legal Assistance (MLA)"

The International Institute for Justice and the Rule of Law (IIJ), an institution inspired by the Global Counterterrorism Forum (GCTF), provides training to lawmakers, police, prosecutors, judges, corrections officials and other justice sector practitioners on how to address terrorism and related transnational criminal activities within a rule of law framework. Established in 2014 in Malta, with an international Governing Board of Administrators (GBA) representing fourteen countries and the European Union, the IIJ has established itself as a leading platform to deliver innovative and sustainable counter-terrorism capacity-building based on the rule of law and related good practices developed by the GCTF and other international and regional fora. For more information, visit the IIJ website: <https://theijj.org/>.

BACKGROUND

In 2015, the IIJ launched its Global Central Authorities Initiative (GCAI) to support partner nations in reinforcing their central authorities and strengthening their international judicial cooperation. Since then, the IIJ has worked with a wide range of countries – including in East Africa -- and has published *The IIJ Good Practices for Central Authorities*, which build upon Good Practice 9 of the GCTF's Rabat Memorandum and promote United Nations Security Council Resolutions relevant to international judicial cooperation (such as Resolutions 2322 and 2396).

The Canadian-funded project **Building Strong Procedural Mechanisms for Mutual Legal Assistance (MLA)** aims to build upon past programs implemented under the IIJ's GCAI and seeks to increase cross-border sharing of information and standardise procedures for issuing and processing MLA and extradition requests in both Kenya and Somalia and between the two countries. Since December 2022, the IIJ has completed five activities under the project,

working directly with Kenyan and Somali practitioners and institutions to take stock of the current state of play of their respective MLA and extradition mechanisms, identifying areas which could be improved. At the joint Kenyan-Somali workshop of October 2023, practitioners agreed on a number of priority areas to strengthen their judicial cooperation in the mid- and long-term.

Two additional activities will be implemented in 2024, including the **Legal Drafting Workshop and Consultation on the Somali International Judicial Cooperation Law, to take place on 4-7 March 2024 in Nairobi, Kenya**. The objective of this programme is to support the Somali government in drafting its first-ever law on international judicial cooperation (IJC). In cooperation with the Ministry of Justice and Constitutional Affairs (MoJCA) of the Federal Republic of Somalia, the IIJ workshop/consultation will gather legal drafters associated with the MoJCA and representatives of federal institutions involved in IJC. The workshop/consultation will result in the preparation of the skeleton of the future law, which will integrate the feedback from earlier programs under the grant of federal institutions relevant in IJC processes in Somalia.

Ahead of this programme and consistent with good legislative drafting practices, a comparative IJC law specialist will prepare a gap analysis of the current Somali legal and institutional framework related to IJC, which will then be discussed at the workshop/consultation. The specialist will also be involved in certain aspects of the development of the draft, including providing inputs on the draft law outline to be developed at the workshop/consultation and reviewing the draft law when finalised.

The IIJ thus seeks a Consultant to prepare the gap analysis of the Somali IJC legal/institutional framework and assist with the preparation of the draft law on IJC.

KEY TASKS AND DELIVERABLES:

The Consultant will work under the overall guidance of the IIJ Director of Programmes, and under the direct supervision of the IIJ Programme Manager.

The Consultant services will entail the following tasks within the timeframes provided:

1. With the support of the IIJ Programme Manager and representatives of the MoJCA, prepare a gap analysis of Somalia's current legal and policy framework in the area of IJC. This will include:
 - Mapping out international standards and resources on IJC (primarily with regard to MLA and extradition) of relevance to Somalia; Somalia's international obligations in the field of IJC (listing applicable treaty or convention provisions); applicable Somali legal provisions on IJC; and various Somali institutions involved in IJC according to the current legal framework;
 - Reviewing the data mapped out and identifying all gaps between the applicable legal and institutional framework and international standards on IJC; possible inconsistencies within the domestic legal framework; and ineffective legal/policy/institutions arrangements regarding IJC;

- Recommending how these gaps should be addressed and translating these recommendations into legal options and/or provisions which can be easily integrated into the IJC draft law outline and/or the text of the draft law itself (5 days).

The IIJ Programme Manager will share available data and resources collected during the implementation of the project (including most of the relevant Somali laws in English, some of the international norms on IJC, and activity reports and informal roadmaps stemming from past activities with Somali practitioners). The Consultant will be able to liaise with the MoJCA and representatives of other Somali institutions of interest to complete the gap analysis (through short calls and emails).

2. Attend the March 2024 programme in Nairobi to:
 - present the gap analysis and related resources;
 - advise on the outline of the draft law to be developed at the programme;
 - moderate some sessions; and
 - act as a resource person throughout the programme by sharing knowledge and advice to participants when requested (4 days);
3. Review the draft IJC law when translated into English and provide comments to the drafters, highlighting recommendations to ensure the draft law follows international standards on IJC and is compatible with Somalia's applicable legal framework (5 days).

CONSULTANT PROFILE

- Advanced university degree (Master's degree or equivalent) in law or a relevant discipline.
- A minimum of 8 years of relevant experience in **legal research** (including academic research) and **legislative analysis**, focusing on comparative or domestic criminal procedure (including in civil law jurisdictions and/or federal systems of governance), and/or international judicial cooperation.
- **Experience in drafting domestic legislation, model legislation or international instruments (treaties, conventions) in the areas referred to above, is a must.** Ideally, this experience would have related to East Africa or other regions of Africa, a civil law jurisdiction, a federal state and/or Italy.
- Good substantive knowledge and practice of criminal procedure, international law on international judicial cooperation, rule of law issues (including counter-terrorism and transnational criminality), civil law jurisdictions and federal models of governance is desirable.
- Good legal and policy research, drafting, conceptual thinking and analytical skills.

- Attention to deadlines and achieving results in accordance with qualitative and quantitative requirements.
- Ability to work with individuals from diverse backgrounds.

APPLICATION

Applicants may send their CV and Covering Letter to hr@theij.org and trann@theij.org citing CAN4MLA6 Consultant as the subject line. The vacancy shall remain open until filled.

