

TERMS OF REFERENCE FOR INDIVIDUAL CONSULTANTS AND CONTRACTORS

Title: Consultancy for analysis and recommendation for strengthening the best interest assessment and determination of refugee children, incl. UASCs	Funding Code 0570/A0/06/001/006/005 SM220855	Type of engagement <input checked="" type="checkbox"/> Consultant	Duty Station: Sofia, Bulgaria
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Purpose of Activity/Assignment:

UNICEF promotes the rights and well-being of every child; in everything we do. Together with our partners, we work in 190 countries and territories to translate that commitment into practical action, focusing special effort on reaching the most vulnerable and excluded children, to the benefit of all children, everywhere. UNICEF supports child health and nutrition, good water and sanitation, quality basic education for all boys and girls, including the most vulnerable like the asylum-seeking, refugee and migrant children and works with Governments and other stakeholders to strengthen child and social protection systems. In January 2023, the Government of the Republic of Bulgaria and UNICEF started the implementation of a new Country Programme for the period 2023-2027. The overall goal of the Country Programme is to ensure that girls and boys, young children, and adolescents, especially the most vulnerable, have a better start in life, are safer and receive better support to develop their full potential. The key programme priority areas include: ECD and Child Protection; Quality and Inclusive Education and Adolescent' Empowerment; Social Inclusion and Child Rights Monitoring.

Over the past years, Bulgaria has been significantly impacted by the flow of migrants and refugees including unaccompanied and separated children (UASC). The most significant influx of refugees since 2015 onwards was experienced in 2022. According to the State Agency for Refugees, a total of 20,407 persons applied for international protection in 2022, compared to a total of 3,135 asylum-seekers for the same period in 2021, which is an increase of more than 300%. Out of all asylum-seekers in 2022, 5,141 are children or 25%; out of them, a total of 3,348 are UASC, or 65%. The trend continues in 2023 and, in the first half of the year, 7694 asylum applications were registered, of which 3351 are from children, including 1293 from UASCs.

Irrespective of their migration or refugee status, unaccompanied children are first and foremost entitled to all the rights enshrined in the 1989 United Nations Convention on the Rights of the Child (CRC). Article 3 of the CRC states: 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.' The Committee on the Rights of the Child has issued General Comments in order to provide authoritative guidance to States regarding the interpretation and implementation of the CRC. Relevant General Comments of the Committee on the Rights of the Child in relation to unaccompanied children with regard to the principle of the best interests of the child are, inter alia:

- General Comment No.12 (2009) on the Child's Right to be Heard;
- General Comment No.14 (2013) on the Best Interests of the Child;
- General Comment No.22 (2017) on the general principles regarding the human rights of children in the context of international migration (8).
- General Comment No. 6 (2005) on Treatment of unaccompanied and separated children outside their country of origin.

The principle of the best interests of the child also cuts across all legal instruments of the Common European Asylum System. According to Article 23 of the Reception Conditions Directive (RCD), the best interests of the child shall be a primary consideration for Member States (MS) when implementing those provisions of the RCD that involve children. Article 24 of the Charter of Fundamental Rights of the European Union (EU Charter) states that in 'all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary

consideration'. Therefore, in applying the RCD, MS should seek to ensure full compliance with the principle of the best interests of the child, in accordance with the CRC and the EU Charter respectively (9).

The Convention on the Rights of the Child gives the child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her. States must put in place formal processes, with strict procedural safeguards, designed to assess and determine the child's best interests for decisions affecting the child.

While in accordance with the CRC, the principle of best interests of the child is an overarching consideration in the child protection measures and services in Bulgaria, as per the provisions contained in the Child Protection Act (CPA, Art. 3), the CPA does not introduce a reference to a secondary legislation act to outline the procedure for assessing or determining the best interests of the children at risk. In its supplementary provisions (Para. 5), the main elements of the Best Interest Determination (BID) are outlined, without an explanation on their operationalization.

All actions concerning asylum seeking and refugee children should have the best interests as their primary consideration, as stipulated in Art. 6a of the Law on Asylum and Refugees (LAR). Although the Child Protection Departments are responsible to provide child protection and have specific obligations under the Law on Child Protection, the Law on the Asylum and Refugees and the Law on the Foreigners in the Republic of Bulgaria towards the unaccompanied and separated children, including unaccompanied and separated children, seeking or granted international protection in Bulgaria, they do not fulfil them, for the reasons stated above.

Further, the establishment of a formal process for Best Interest Determination as per the provisions of the CPA, has not been done. This protection gap has been observed and noted by the Committee on the Rights of the Child in its review of the child protection system in 2016 where it recommends the establishment of a best interest determination procedure.

UNICEF in Bulgaria supports the Government to strengthen the national and local authorities' capacity to provide appropriate support, care, and protection to refugee and migrant children, ensuring improved identification, protection, and assistance to UASCs, improved access to quality protective measures and support services for asylum-seeking, refugee and migrant children.

As part of its support and efforts to strengthen national and local efforts for care and protection of refugee and migrant children including UASC, UNICEF is seeking a consultant to carry out an analysis of the BIA/D policies, procedures and practices in-country.

Scope of Work:

The main purpose of the Consultancy is to analyse the legal and policy framework, the procedures and practices for best interest assessment/best interest determination (BIA/D) of asylum-seeking and refugee children in Bulgaria and support the development of guidance for improving their best interest assessment and determination.

The main objectives are as follows:

- 1) Carry out an analysis of the legal and policy framework, procedures and practice of relevant stakeholders;
- 2) Review and map existing international guidance and national and/or local good practices from other countries; and
- 3) Propose guidance and tool/s for improving BIA/D for asylum-seeking and refugee children in Bulgaria.

Key deliverables:

- A written report/analysis including:
 - A brief overview of the legal and policy framework in Bulgaria, capturing and analysing alignment with international and EU standards, any gaps and areas for improvement.
 - Assessment of the existing procedures and practices in-country, incl. the case law; and
 - Recommendations for strengthening the national legal and policy framework, procedures and practice of front-line workers and professionals from the child protection and asylum system.
- A report documenting the review and mapping of international guidance and national/local good practices; and
- Proposed guidance and tool/s for improving the BIA/D practice for asylum-seeking and refugee children in Bulgaria.
- A PPT in Bulgarian and English for the BIA/D analysis and proposed guidance and tools to be presented in a validation workshop with main stakeholders.

Timeframe and duration of the assignment

the assignment is envisaged to take place between 24 August – 20 November 2023.

Payment

Payments will be processed after issuing an invoice for service and approved deliverables as per the below key milestones and delivery deadlines.

Payment of professional fees will be based on submission of agreed deliverables. UNICEF reserves the right to withhold payment in case the deliverables submitted are not up to the required standard or in case of delays in submitting the deliverables on the part of the consultant.

Child Safeguarding

Is this project/assignment considered as "[Elevated Risk Role](#)" from a child safeguarding perspective?

YES NO If YES, check all that apply:

Direct contact role YES NO

If yes, please indicate the number of hours/months of direct interpersonal contact with children, or work in their immediately physical proximity, with limited supervision by a more senior member of personnel:

Child data role YES NO

If yes, please indicate the number of hours/months of manipulating or transmitting personal-identifiable information of children (name, national ID, location data, photos):

More information is available in the [Child Safeguarding SharePoint](#) and [Child Safeguarding FAQs and Updates](#)

Budget Year: 2023	Requesting Section/Issuing Office: Child Protection unit at BCO	Reasons why consultancy cannot be done by staff: Lack of specific competencies and expertise on behalf of staff
Included in Annual/Rolling Workplan: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, please justify:		
Consultant sourcing: <input checked="" type="checkbox"/> National <input type="checkbox"/> International <input type="checkbox"/> Both Competitive Selection: <input checked="" type="checkbox"/> Advertisement <input type="checkbox"/> <input type="checkbox"/> Roster Single Source Selection <input type="checkbox"/> (Emergency - Director's approval)		Request for: <input checked="" type="checkbox"/> New SSA – Individual Contract <input type="checkbox"/> Extension/ Amendment
If Extension, Justification for extension:		
Supervisor: <i>Lora Voynova</i>	Start Date: <i>24 August 2023</i>	End Date: <i>30 November 2023</i>

Work Assignments Overview/Key deliverable	Main activities/ Deliverables/Outputs	Delivery deadline	Estimated Budget ¹
A written report/analysis	A brief overview of the legal and policy framework in Bulgaria, capturing and analysing alignment with international and EU standards, any gaps and areas for improvement.	30 days (25 Aug – 30 Sept 2023)	7500 BGN

¹ Costs indicated are estimated. Final rate shall follow the “best value for money” principle, i.e., achieving the desired outcome at the lowest possible fee. Consultants will be asked to stipulate all-inclusive fees, including lump sum travel and subsistence costs, as applicable.

	<p>Assessment of the existing procedures and practice in-country, incl. the case law</p>		
<p>A report documenting the review and mapping of international guidance and national/local good practices</p>	<p>Recommendations for strengthening the national legal and policy framework, procedures and practice of front-line workers and professionals from the child protection and asylum system.</p>		
<p>Guidance and tool/s for improving the BIA/D practice for asylum-seeking and refugee children in Bulgaria.</p>	<p>Identification of good practices that are in line with the international standards</p>	<p>15 days (1 Oct- 20 Oct 2023)</p>	<p>3750 BGN</p>
	<p>Development of a comprehensive and practical tool/guide for when and who needs to initiate BIA and BID for refugee and asylum-seeking children in Bulgaria;</p> <p>PPT in Bulgarian and English for the BIA/D analysis and proposed guidance and tools to be presented in a validation workshop with main stakeholders</p>	<p>20 days in the period 1 Nov- 30 Nov 2023</p>	<p>5000 BGN</p>

Estimated Consultancy fee			16,250 BGN
Travel International (if applicable)	N/A		
Travel Local (please include travel plan)	N/A		
DSA (if applicable)	N/A		
Total estimated consultancy costsⁱ			16,250 BGN
<p>Minimum Qualifications required*:</p> <p><input type="checkbox"/> Bachelors <input checked="" type="checkbox"/> Masters <input type="checkbox"/> PhD <input type="checkbox"/> Other</p> <p>Enter Disciplines: Law; Social/Humanitarian studies; International Law; Political studies;</p> <p>*Minimum requirements to consider candidates for competitive process</p>	<p>Knowledge/Expertise/Skills required*: At least five years of relevant professional experience into research and experience in data collection and analysis; Sound knowledge and understanding of the child protection system in Bulgaria with a focus on refugee and migrant children; Knowledge and understanding of the children's rights; International experience will be considered as an advantage; Excellent analytical and written skills; Good planning and organizational skills; Respect for cultural diversity and human rights; Proficient command of English; Knowledge of the UN system and UNICEF mandate is an advantage.</p> <p>*Listed requirements will be used for technical evaluation in the competitive process</p>		
<p>Evaluation Criteria (This will be used for the Selection Report (for clarification see Guidance))</p> <p>A) Technical Evaluation (maximum 75 Points)</p> <ul style="list-style-type: none"> - Meeting the required education -10 points. - At least five years' experience into research and experience with data collection and analysis – 20 points. - Experience in the CP system and working on issues related to the refugee and asylum-seeking children, incl. UASCs – 20 points. - Proposal for methodology, submitted as part of the application of the consultant that will outline the collection of methods applied to the research and principles that will support it with the overall goal to meet the objectives of the assignment withing the suggested timeframe – 25 points <p>B) Financial Proposal (maximum of 25 Points)</p> <p>As indicated above, costs indicated are estimated. Final rate shall follow the “best value for money” principle, i.e., achieving the desired outcome at the lowest possible fee. Consultants will be asked to stipulate all-inclusive fees, including lump sum travel and subsistence costs, as applicable. The maximum score of 25 points for BIA/D analysis will be given to the lowest offer.</p>			
<p>Administrative details:</p> <p>Visa assistance required: <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> Home Based <input type="checkbox"/> Office Based:</p>	<p>If office based, seating arrangement identified: <input type="checkbox"/></p> <p>IT and Communication equipment required: <input type="checkbox"/></p> <p>Internet access required: <input type="checkbox"/></p>		
Request Authorised by Section Head	Request Verified by HR:		

<i>Approval of Chief of Operations (if Operations):</i> <hr style="width: 80%; margin-left: 0;"/>	<i>Approval of Deputy Representative (if Programme)</i> <hr style="width: 80%; margin-left: 0;"/>
<i>Representative (in case of single sourcing/or if not listed in Annual Workplan)</i>	

Text to be added to all TORs:

Individuals engaged under a consultancy or individual contract will not be considered “staff members” under the Staff Regulations and Rules of the United Nations and UNICEF’s policies and procedures and will not be entitled to benefits provided therein (such as leave entitlements and medical insurance coverage). Their conditions of service will be governed by their contract and the General Conditions of Contracts for the Services of Consultants and Individual Contractors. Consultants and individual contractors are responsible for determining their tax liabilities and for the payment of any taxes and/or duties, in accordance with local or other applicable laws.

The selected candidate is solely responsible to ensure that the visa (applicable) and health insurance required to perform the duties of the contract are valid for the entire period of the contract. Selected candidates are subject to confirmation of fully-vaccinated status against SARS-CoV-2 (Covid-19) with a World Health Organization (WHO)-endorsed vaccine, which must be met prior to taking up the assignment. It does not apply to consultants who will work remotely and are not expected to work on or visit UNICEF premises, programme delivery locations or directly interact with communities UNICEF works with, nor to travel to perform functions for UNICEF for the duration of their consultancy contracts.

UNICEF offers [reasonable accommodation](#) for consultants with disabilities. This may include, for example, accessible software, travel assistance for missions or personal attendants. We encourage you to disclose your disability during your application in case you need reasonable accommodation during the selection process and afterwards in your assignment.
