

TERMS OF REFERENCE

INTERNATIONAL CONSULTANT FOR THE ELABORATION OF JUSTICE SECTOR REFORM PROGRAMME OF SAO TOME AND PRINCIPE

Location :	São Tomé, São Tomé and Príncipe
Application Deadline :	5 April 2011
Type of Contract :	SSA
Languages Required :	Portuguese, French, English
Duration of Initial Contract :	Three months

I. Context and Justification

The United Nations Development Assistance Framework [UNDAF] for 2007-2011 identifies the reinforcement of public institutions to guarantee their reform and the transparent and just application of the rule of law as one of the outcomes that the United Nations Country Team (UNCT) will be working on during this period. In particular, Output 2.6. identifies *the strengthening of judicial institutional capacities to guarantee respect for the rule of law* as its target. UNDP's contribution to the justice sector of São Tomé and Príncipe in the current programming cycle has been done through the project "Appui institutionnel au Secteur de la Justice". Within this project framework, UNDP has supported the institutional capacities of the Supreme Court of Justice and of the Office of the Attorney General in an effort to help ensure that justice is delivered and available in a prompt, adequate and effective manner.

The past two years have been testimony to important developments in the justice sector. One of such developments – and one which UNDP supported - consisted in the realization of a nationwide justice meeting. The meeting – which took place in November 2009 – provided an opportunity for justice stakeholders to discuss and identify the needs and obstacles to an efficient administration and delivery of justice. The meeting also provided an occasion for engagement of the stakeholders in the justice reform process. Another important development consisted in the approval of the new Law of the Judicial System. This Law regroups the national territory into three judicial regions [Água Grande, Lembá e Região Autónoma do Príncipe] and it provides for the possibility of establishing specialized tribunals or specialized sections [within the Courts of First Instance].

In August 2010, there were legislative elections which resulted in the formation of a new government. The Programme of the XIV Constitutional Government identifies "Justice and State Reform" as one of its priorities. The Programme further identifies "Judiciary and Legislative Reform" as an intervention area, outlining a series of actions that will contribute to achieving the above-identified national priority. The actions include, but are not limited to: implementing the specialized tribunals and/or sections identified in the new Law of the Judicial System; implementing actions to revise the Civil Code, the Civil Procedure

Code, the Civil Status Code; harmonizing domestic laws with the relevant international conventions; creating a judicial statistics service which makes available, on a regular basis, the contents of judgments and other decisions.

According to the organic law of the XIV Constitutional Government, the Ministry of Justice is responsible for directing, executing and accompanying the justice policy as defined by the Government. However, at present, such policy has not been yet formulated. In addition, although there were initiatives undertaken in the justice sector – by either national institutions or by development partners - there was never a comprehensive justice programme that addressed in a global fashion the needs and identified the obstacles of the justice stakeholders. UNDP São Tomé and Príncipe will therefore commission in 2010-2011 the elaboration of a comprehensive reform programme for the justice sector of São Tomé and Príncipe.

UNDP is now looking to identify **an international Consultant** (hereinafter, the “Consultant”) who can support the entire programme elaboration from start to finish, ensuring coherence across all the steps. The Consultant is expected to work very closely with the national team – which will be identified by the Ministry of Justice of São Tomé and Príncipe – as well as with all the partners and stakeholders to ensure the appropriation of the justice reform programme. Stakeholder appropriation will also imprint a global perspective to the elaboration of the programme, ensuring linkages between all elements and actors of the process and avoiding the formation of “bottlenecks”.

The justice reform programme will be designed for two principal purposes: to improve the administration of justice through the strengthening of the capacities of courts and prosecution to deliver justice; and to improve peoples’ access to a remedy for their grievances as well as to ensure access to justice *lato sensu* for vulnerable groups. This preoccupation is reflected in Output 2.1. of UNDAF which stipulates that the legal and institutional environment guarantee the protection of children, youth and vulnerable groups.

The overarching purpose of the justice reform programme is that it will provide a single framework for programme funding (from donors); in addition, it will constitute a single sector policy and coordinated expenditure framework, under Government leadership.

These terms of reference are organized into the following sections:

- II. Objective of the consultancy
- III. Methodology and activities framework
- IV. Expected Outputs
- V. Chronogram
- VI. Profile of International Consultant

II. Objective of the consultancy

The objective of the consultancy consists in the elaboration of a Justice Sector Reform Programme which provides strategic guidance to the Government and which contributes to a more efficient administration of justice in Sao Tome and Principe

The Consultant – in close collaboration with the national team - is tasked with elaborating a Justice Sector Reform Programme taking into account the requisites, specificities and limits contained in the present Terms of Reference and dictated by the exigencies of the institutional, cultural and socio-economic context of Sao Tome and Principe.

III. Methodology and Activities Framework

Methodology

The elaboration of the Justice Reform Programme will follow a human rights based approach (HRBA) – ensuring participation, accountability, equality and non-discrimination. The elaboration of the Programme constitutes an appropriation opportunity in itself, therefore the Consultant should adopt a methodology of close collaboration and discussion with the stakeholders, enabling the transfer of knowledge and skills and ensuring that the programme reflects the concerns and aspirations of the people of Sao Tome and Principe. The appropriation of the Programme by the stakeholders, as well as its sustainability, should be a constant concern and it should be weaved into the program elaboration process.

Activities Framework

The following **Activities Framework** is proposed:

Step 1: Desk review and Initial Meetings with Justice Sector Actors

The Consultant – in close collaboration with the national team - will proceed to:

- (1) Stocktaking of legislation, policies and other available and relevant documentation about the justice system of Sao Tome and Principe.
- (2) Identify and establish contact with the actors in the justice system, including but not limited to:
 - a. Court system: Supreme Court of Justice, Courts of First Instance and Regional Courts
 - b. Public Prosecution
 - c. Ministry of Justice (Criminal Investigation Police [PIC] and prison system included)
 - d. Ministry of Internal Affairs (National Police [PN])

- e. Lawyers, Bar Association
- f. Legal aid providers (if applicable)
- g. Civil society organizations

Key informants: to identify key informants, the team (international Consultant + national team) will draw on their own networks and knowledge of the legal system and will consult with the Coordination Committee (see Section VI for more details on the CC).

Step 2: Inception Report

The Consultant is tasked with preparing and presenting an initial report (“inception report”) to UNDP. This report should contain: (1) an analysis of the information obtained through the desk review and through the meetings held during Step 1; (2) a narrative addressing the methodology to be adopted in the collection of qualitative data and in general in the consultations with stakeholders; (3) a work plan outlining the activities planned and how they contribute to achieving the outputs identified in Section IV. If applicable, the inception report should identify measures regarding the preservation of the confidentiality of the information received.

Inception report to include:

- A list of the persons consulted during Step 1;
- Copies of information collected and list of consulted legislation and other relevant documentation (with copies thereof);
- An analysis of the information obtained through desk review and meetings;
- Proposed methodology;
- A work plan.

Step 3: Qualitative Data Collection

1. Conduct meetings with service providers and service users

The programme document should reflect an analysis of the “needs of justice” from the supply side and demand side of justice. In this sense, the Programme should take into consideration the following elements:

Part A: Supply Side - Service Providers

- What are the institutions in the justice sector from occurrence of grievance to point of remedy:
 - Identify the actors within these institutions and the types of powers they hold;

- Identify and map in terms of geographic coverage those areas which are out of range of the institutions in the justice sector and what type of solutions people use for redress of their justice problems.
- Identify and analyze the a) positive factors (what is working) as well as b) obstacles (what is not working) for service providers to fulfill their obligations
 - Identify strengths and weaknesses of the service providers to deliver the services expected;
 - Identify perceptions of strengths and weaknesses by justice sector actors;

Part B: Demand Side - Service Users (including vulnerable groups)

- Identify the types of difficulties (legal and what at levels, economic, administrative, etc) encountered by those attempting to access justice
 - Identify the justice perceptions and main priority areas for different groups (for instance, women, children and youth, extreme poverty, pre-trial detainees, among others)
 - Identify perception of people of a) positive factors (what is working) as well as b) obstacles (what is not working) for people to access the justice sector to have their grievances redressed
 - Identify structural problems that contribute to difficulties (poverty, gender-based discrimination, etc)

Step 3 will take place in the capital and in the districts of Lembá, Lobata, Caué, Mé-Zochi and Cantagalo as well as in the Autonomous Region of Príncipe (to be decided during the elaboration of the Programme).

The consultations with stakeholders should include, without being limited to:

- Meetings and Focus Discussion Groups (FDGs) with ministerial officials, jurists, magistrates, representatives of the civil society, among others. Depending on the issues addressed, the team may wish to select individuals for more in-depth interviewing;
- Direct observation of court proceedings.

Step 4: Redaction of Draft Programme Document

The draft Programme Document should include the information collected through the stakeholder consultation process described in Step 3 as well as an analysis of this information, including a brief summary of the findings. The draft programme document should also identify priority intervention areas for justice reform. Finally, the draft Programme Document should contain recommendations for setting up the Programme, with a section on the feasibility of addressing the interventions identified through a UNDP project.

Draft Programme Document to include (not necessarily in this order):

- Qualitative findings and analysis;

- Major findings and recommendations;
- Plan of Action Matrix for 2011-2019;
- Follow-up actions (including issues to be considered).

Step 5: Workshop with Stakeholders

The first workshop is meant to provide stakeholders with an opportunity to participate and contribute to the amelioration of the draft Programme Document

Step 6: Finalize Programme Document (for guidelines, see Section 4 below)

Step 7: Presentation and validation of the final version of the Programme Document

The second workshop will validate the final version of the Programme Document

IV. Expected Outputs

At the end of the assignment, the Consultant is expected to deliver a **Programme Document** in Portuguese which will include, for each of the institutions identified in Step 3 of Section 3 (and others which may be identified during the assignment), the following components:

- i. **Results Matrix:** identification of the objectives, activities, results and chronogram that will lead to the expected scenario;
- ii. **Resources Matrix:** Identification of resources – human, material and financial – necessary in order to implement the projected activities. The Programme Document should include a budget that relates inputs to outputs;
- iii. **Organization and Management:** identification of the organizational and managerial aspects of the Programme, namely the institution responsible for the management and coordination of the Programme as well as the role and responsibilities of the institutions partaking in the implementation of the Programme. It will also be important to address potential weaknesses of these institutions and identify measures enabling them to implement the tasks identified in the Programme Document;
- iv. **Monitoring and Evaluation:** Identification of monitoring and evaluation mechanisms for the Programme and definition – for each objective and activity – of indicators determining the degree of delivery of the Programme outputs.
- v. **A Plan of Action for 2011-2019.**

Attending to the difficulty in implementing a Reform Programme that addresses all the needs of the justice system, the Consultant should identify priority areas which require a more immediate intervention as well as those areas which are more likely to display positive repercussions on the medium run. The team should also identify threats and weaknesses which can undermine and compromise the implementation of the Programme and issue any necessary recommendations.

V. Chronogram

The process of elaboration of the Programme Document for the Justice Sector of São Tomé and Príncipe should be concluded twelve (12) weeks after the signature of the contract. During this period, the following outputs/activities are expected, according to the table below:

	Weeks	1	2	3	4	5	6	7	8	9	10	11	12
Outputs/Activities													
Desk Review													
Inception Report													
Consultations with Stakeholders													
First Version of Programme Document													
Workshop Stakeholders													
Final Version													
Final Validation Workshop													

VI. Profile of International Consultant

1. Duties and Responsibilities

The International Consultant is the principle responsible for the elaboration of the Justice Sector Reform Programme and for the overall management of the national team.

The Consultant will work closely with the MOJ and other key stakeholders in Sao Tome and Principe for the elaboration of the Programme. She/he will provide substantive input to inform programme design as well as the components identified in Section 4 of the present ToR. The Consultant will coordinate the work of the national team. He/she will engage with key justice stakeholders and explore the possibilities of partnership and joint actions with other development partners in the implementation of the Programme. He/she will also address the possible role of UNDP in Sao Tome and Principe in the implementation of the Programme.

The International Consultant will coordinate all aspects of the elaboration of the Programme Document with the Coordination Committee, constituted by elements of the relevant national authorities and of UNDP, and which functions under the direction and supervision of the Resident Representative or the Assistant Resident Representative/Programme of UNDP. The Coordination Committee will ensure both compliance with the Terms of Reference and that a participative and inclusive methodology is used in the process of elaboration of the Programme Document.

2. Results/Expected Outputs

- a) Development of methodology based on the guidelines provided in this TOR;
- b) Administer training (if necessary) to national team;
- c) Lead all stakeholder consultation process;
- d) Plan meetings and data collection activities required to produce the draft Programme Document;
- e) Draft the three reports [(i) inception report; (ii) draft Programme Document (incl. matrix of Plan of Action 2011-2019); (iii) and Final Programme Document] in close collaboration with the national team;
- f) Ensure quality of team work;
- g) Ensure the quality of the end products;
- h) Contribute with high technical support in his field of expertise and in project/programme design;
- i) Provide regular updates to the Government's interlocutors and UNDP;

- j) Send the required reports (inception report, draft programme document and final programme document) to the UNDP Representative and meet the agreed deadline;
- k) Lead any required actions for dissemination of the main findings.

3. Competencies

- Excellent analytical and conceptual thinking skills;
- Substantive knowledge of justice reform, including comparative perspectives;
- Excellent analytical, research, report writing skills;
- Excellent listening skills and ability to work as part of a team;
- Very strong time management skills and capacity to meet tight timelines;
- Excellent interpersonal and communication skills.

4. Required Skills and Experience

Education

Advanced university degree in law with specialization in human rights, international law or comparative law

Professional Experience

1. Minimum of seven years of relevant work experience on justice sector reform issues;
2. Demonstrated experience in working with government officials and the court system on issues pertaining to justice reform;
3. Previous experience with the justice sector in other Lusophone countries an asset;
4. Knowledge of UNDP procedures would be an advantage.

Languages and other requirements

1. Fluency in Portuguese is required; excellent oral and written skills in French and English are an asset;
2. Excellent command of MS Office Applications (including Word, Excel and PowerPoint).