

TERMS OF REFERENCE
CONSULTANCY TO A CONDUCT NATIONAL REVIEW
ON RESTORATIVE JUSTICE FOR
CHILD VICTIMS IN ROMANIA

TERMS OF REFERENCE:

Location: ROMANIA with travel to various locations in the country

Title: i-RESTORE - Consultancy for a national review on Restorative Justice for Child Victims

Period of the consultancy: 11 November 2019 – 30 April 2020

Duration of the consultancy: 28 working days

1. Presentation of Terre des hommes

Terre des hommes (Tdh), the leading Swiss child relief non-profit organization, is active in 35 countries with its programs in mother and child health, migration, juvenile justice, child labour and humanitarian emergencies.

Since 1996, Tdh has been working on juvenile justice in numerous countries across the globe. **In 2016, Tdh's juvenile justice activities in twenty countries trained 15,000 professionals in juvenile justice and supported 21,000 children in conflict with the law.**

Built on **20 years of experience** and capitalization of best practices, Tdh's actions are based on a **child-friendly approach to justice**, which means that justice is adapted to children, to their maturity and level of development, and on a **restorative approach**, which seeks to repair the damage caused to the individuals, the affected parties and the wider society, and which requires active participation of the child offender, the victim and other involved members to resolve the conflict.

The overall goal and strategic vision of Tdh juvenile justice programme is that by 2020, Tdh has contributed significantly and sustainably to improving access to formal and informal justice systems by children in Europe. Tdh plans to contribute to developing and improving justice systems by enhancing the restorative approach and in particular by promoting alternatives to trials, detention and specialized custodial care for children. To that end, Tdh has developed a Theory of Change with 4 pillars for Justice:

- 1. Children and youth in conflict with the law benefit from non-custodial measures** - Tdh will work closely with professionals across the chain of justice, including police, prosecutors and judges, and ensure that the necessary legislation is in place, to enhance the use of diversion and alternatives to detention.
- 2. Girls, boys and youth in detention are treated with dignity and prepared for reintegration** – Tdh will work with staff in detention facilities and professional training institutions for justice professionals more widely, in order to mitigate the harmful effects of deprivation of liberty on children and shift the culture of detention facilities to decrease violence, optimize rehabilitation, and reduce recidivism.
- 3. Prevention & reintegration services for children are improved** - Tdh will work with families, community-based organisations and community leaders, to nurture a compassionate and supportive environment to ensure that violence against children and committed by children is reduced and that children are reintegrated into their communities.
- 4. Synergies in contexts of legal pluralism enrich children's experiences of restorative justice** - Tdh will support coordination amongst formal justice actors, both secular and religious, and customary justice actors, including indigenous actors, to promote recognition of positive restorative practices and better decision-making that upholds the best interests of the child.

Tdh's work in Access to Justice contributes directly to Sustainable Development Goal N°16, namely 16.2 reducing violence against children and 16.3 reinforcing access to justice. It also endeavors to protect the rights of children in conflict with the law (articles 37 and 40 of the Convention on the Rights of the Child) and of children victims (article 19), as well as the involvement of the family and the community in the development of children (article 5), and the protection of the rights to non-discrimination (article 2), to have their best interest taken into consideration (article 3), to life survival and development (article 2), right to participation in all matters affecting them (article 12).

2. Background

As an approach to justice that focuses on the needs and rights of the victims, the motivations of the offenders and the role of the local community, Restorative justice facilitates a proactive approach to preventing harm as well as ensuring that people are responsible for their choices and actions and can be held accountable for them. Restorative Justice is a process in which the child offender, the victim (only with his or her consent) and, where appropriate, other individuals and members of the community participate actively together in the resolution of matters arising from the offence.

Children and young people's voices, including victims', need to be heard and greater opportunities provided to them for sharing experiences and providing inputs to develop transformative policies and programmes related to justice for children.

The practice of Restorative Justice is still emerging in many countries in Europe, which are still novice in terms of applying Restorative Justice as a conflict resolution mechanism in cases related to child victims. This is probably due to the fact that restorative justice processes are at their early stage of development in many countries, and State and non-State practitioners still need to build their capacities on how and when to adopt its approaches and mechanisms. Despite obvious and undeniable national particularities, there is a recognizable degree of convergence among the systems in Western, Central and Eastern Europe. However, despite major reform advancements, even though the current legislation in the target countries recognizes restorative approaches such as mediation, or sentences involving community service, in most cases, these are not used enough and other sanctions prevail.

In this context, the i-RESTORE project proposes to foster mutual learning and adopt a child-rights perspective to promote a tailored Restorative Justice response to protect the full range of child victim's rights. It will do this by using a holistic and participative approach. i-RESTORE is a project funded by the Justice Programme of the European Union, led by Terre des hommes Hungary and implemented in partnership with the European Forum on Restorative Justice, Restorative Justice Netherlands, Terre des hommes Hellas and Terre des hommes Romania.

The main objective of i-RESTORE is to **promote the use of Restorative Justice in cases involving child victims by improving knowledge amongst national stakeholders on child-victim friendly Restorative Justice and empowering children to advocate for better protection of child victims.**

i-RESTORE seeks in particular to:

- 1. Identify gaps and synergies in relation to applying RJ in cases involving child victims**, by conducting a comparative review of current laws, policies, strategies, practices, capacities, researches and initiatives related to RJ in the target countries, in order to: a. highlight (in)consistencies with international and European standards and practices applicable to the protection of the rights of child victims; b. highlight opportunities and existing best practices involving child victims; and c. have a clearer picture of what information has been shared with policy makers and practitioners, and how we can capitalize on existing initiatives to support RJ.
- 2. Collect information from policy makers and practitioners in criminal justice about their level of understanding** about the position of child victims in RJ.
- 3. Empower children to advocate for better protection of child victims in RJ**, including in cases related to emerging forms of child abuse and violence perpetrated online and among peers.
- 4. Build the capacities and foster mutual learning amongst national policy makers and practitioners in criminal justice to implement child-victim-friendly RJ approaches** and mechanisms, through adapting face-to-face and e-learning training material.
- 5. Raise awareness and advocate for child-sensitive RJ approaches in cases involving child victims**, through the development of targeted awareness campaigns, written and video information material produced with children aged 12-

18 years old, and regional advocacy events.

3. Objectives of the consultancy

The general objective of the consultancy is to provide a clear picture of the current situation related to restorative justice processes in the target countries (Romania, Albania, Greece) and how they are compliant with children's rights.

This review will include:

- **existing legislative and policy framework applicable to restorative justice** in the target countries, while pointing out gaps and obstacles.
- an **overview of main results and recommendations from recent and current projects and research**. Initiatives related to RJ that have been conducted in the target countries and as part of European projects so far in order to understand what are the priorities how if previous initiatives have ensured proper safeguards for the participation of child victims; how they have taken into account gender disparities among child victims, which information is available and which institutions and organizations were involved.
- a **review of initial and continuous training** including e-learning programmes available to professionals who are or will be involved in RJ processes and who are working with children. This review will include training programmes offered by academic institutions, universities, schools and specialized training bodies.
- Consultations with policy makers and professionals working with children to review the current capacities of practitioners and policy makers to use RJ with children, including child offenders and child victims, in order to prepare the capacity building phase. The consultation will focus on identifying strengths and gaps in knowledge, skills, attitudes and behaviours, best practices and relevant case studies.
- Consultations with children to collect information directly from children to understand what they know about RJ, what is their level of understanding about RJ and how they believe it could apply or not to situations of conflict involving children including in cases related to abuse, violence, harmful online behaviours.

4. Design and methodology

Locations: Romania; in-country travels for data collection

The national selected consultant will be part of a researchers team composed of: one lead research consultant from Restorative Justice Netherlands, one research consultant from the European Forum on Restorative Justice, three national research consultants for Albania, Greece and Romania.

The selected consultant is expected to provide a national country report (in national language) and a summary of the country report (in English). The country report will give an overview of the current situation concerning restorative justice and children's rights in his/her target country, as well as identify and explain any gaps in this field by conducting the following research:

1. **Desk review:** collection and review of relevant legislations and policies, projects and researches, trainings and e-learning programmes on restorative justice for child victims in the target countries, including information on the legal framework on juvenile justice and practical implementation of restorative justice.
2. **Primary data collection with policy makers and professionals working with children:** focus group discussions; interviews with key professionals; online survey for policymakers and practitioners (quantitative and qualitative data collection).
3. **Primary data collection with children:** focus group discussions (with Child Advisory Boards and with selected group of former child victims); child-friendly anonymous survey (quantitative and qualitative data collection).
4. A **methodology for child and youth participation** in any stage of the project (primary data collection and child participation).

Ethical principles

The following general cross cutting principles will guide the assessment and research process:

- The principle of **“the best interests of the child”** (Article 3, CRC) should be of primary consideration in all actions affecting children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.
- The principle of **“non-discrimination”** (Article 2, CRC) whereby all key-principles and fundamental rights enshrined in the CRC apply to all children, irrespective of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- The principle of **“child participation”** (Article 12, CRC) acknowledges the right of children to express their views freely in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child.
- Quality of research methodology that allows for **validity and reliability of findings open to peer review.**

5. Roles and responsibilities

To ensure the smooth implementation of the mandate, the consultant will be in regular contact with the local coordinator i-RESTORE focal point, Rodica Novac, and with the research coordinator from RJN/EFRJ: Annemieke Wolthuis.

This will include face-to-face meetings, communication via email, and through Skype discussions. Mariama Diallo, Regional Programme Manager Access to Justice for Tdh Regional Office for Europe, will participate in strategic discussions with the research team of EFRJ and RJN and the team in Tdh of Romania and the consultant, when required, to advise on alignment of approach and findings with regional programme strategies.

Tdh offices will provide assistance to the consultant in accessing the key informants and provide logistical support as needed.

The consultant must sign the Terre des hommes Child Safeguarding Policy and Code of Conduct and be willing to adhere to its principles and expected practices. If a breach of the policy or code of conduct takes place the consultancy will be terminated immediately without any financial burden on Tdh.

6. Deliverables, Timeline and Work Plan

All deliverables should be produced in the national language and a summary in **English** and within the set timeframe.

7.1 List of Expected Deliverables:

- 7.1.1 **Research methodology** and work plan
- 7.1.2 **First Draft Report** including the desk research
- 7.1.3 **Transcription** of interviews/focus groups held and consultations
- 7.1.4 **Second Draft Report** including the findings of the primary data collection
- 7.1.5 **Final report**, including an executive summary and recommendations (please see below), including feedback received from Tdh
- 7.1.6 **Summary of the report** in English - standardized format to be commonly agreed
- 7.1.7 **Bibliography** (Format: Author, date, title, publisher)

7.2 Suggested Timeline:

Desk research	4 days
Data collection	8 days
Transcription of interviews/focus groups held	3 days
Data analysis	5 days
Elaborating first draft report with findings and recommendations	5 days
Validation meeting of first draft report to collect feedback and suggestions	1 day
Feedback on Draft final report, Country Profile Fact Sheet and Bibliography	1 days
Summary of the report in English	1 day
Total number of days	28 days

7.3 Indicative Structure of Final Report

The Final Report (max. 40 pages) should include:

- a. An **Executive Summary** (max. 3-4 pages)
- b. **Recommendations**: making direct reference to evidence (summary statement). The recommendations developed should consider **actions needed** on multiple levels across sectors in the area of RJ (e.g. state, civil society, EU-level, monitoring bodies)
- c. Report of **Findings** (max. 40 pages) structured around Thematic Chapters, which address key questions. Each thematic chapter should be structured around the following:
 - a) Restorative justice: policies, research, practices in the target country
 - b) Juvenile justice: policies, research, practices in the target country
 - c) Restorative justice and child victims: the current situation/ reality in the target country
 - d) Children understanding on restorative justice: needs and recommendations
 - e) Reflections on challenges and opportunities
 - f) Training possibilities in the target countries: restorative justice and other relevant subjects
 - g) Conclusive Remarks
 - h) Resource kit

7. Consultant profile

- Advanced degree in the field of law or criminology, or equivalent with strong research and analysis component.
- Proven experience in conducting national-level needs assessments and reviews to feed into strategic and operational planning, particularly in the field of juvenile justice, restorative justice and children's rights.
- Excellent writing and communication skills
- Demonstrated ability to synthesise and critically analyse a wide range of material from primary and secondary data sources and to present information in a concise yet thorough form.
- Excellent command of English a must
- Knowledge of juvenile justice projects and networks in the home country and in the Europe region an asset

8. Budget and resources

The consultant is required to mention in its application a daily rate in EUR, based on a total amount of 28 days required to carry out the consultancy (see section 7 above). All other costs related to the consultancy (travel for in-country visit, accommodation, other logistical support) will be covered by Tdh.

The payment will be issued in two parts:

- a. 40% upon submission of first deliverable (Needs Assessment Protocol);
- b. 60% upon acceptance of the final report.

9. How to apply

All candidates should please send the following documents to rodica.novac@tdh.ch by 30 October 201:

- ⇒ A **Cover Letter**, specifying your daily rate
- ⇒ **Updated CV** in English
- ⇒ A **Sample** of similar work

Please include "i-RESTORE Project, your name and surname" in the subject line of the application email.

Child Safeguarding Policy: To commit to respect Tdh Risk Management Policies including: Child Safeguarding Policy, Safety and Security Policy and Anti-Fraud/Corruption Policy, Whistle Blowing Policy.

Gender & Diversity Policy: To commit to respect Tdh Gender & Diversity Policy.

Due to an anticipated high number of applications, Tdh is not in a position to respond to every applicant individually. Please note that only shortlisted candidates will be contacted for the first interview.

9. Reference Documents

T. Chapman, M. Gellin, I. Aertsen & M. Anderson (2017a) *Protecting Rights, Restoring Respect and Strengthening Relationships: European Model for Restorative Justice with Children and Young People*, European Council for Juvenile Justice, International Juvenile Justice Observatory.

T. Chapman, M. Gellin, M. Anderson (2017b) *Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People*, European Council for Juvenile Justice, International Juvenile Justice Observatory.

T. Gal (2011) *Child Victims and Restorative Justice: A Needs–Rights Model*, Oxford: Oxford University Press.

<http://www.euforumrj.org/news/new-publication-rj-child-victims/>