



1 December 2021

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

for individual consultants and individual consultants assigned by consulting firms/institutions

Country:	Viet Nam
Description of the assignment:	International consultant for research study: Application of alternatives to capital punishment and the right to self-defense in criminal proceedings: International experiences and recommendations for Viet Nam
Period of assignment/services (if applicable):	December 2021-March 2022
Duty Station:	Homebased
Tender reference:	A-211201

1. Submissions should be sent by **email** to: quach.thuy.ha@undp.org no later than:

23.59 hrs., 15 December 2021 (Hanoi time)

With subject line:

A-211201-International Consultant for Research study EU JULE project

Submission received after that date or submission not in conformity with the requirements specified this document will not be considered.

Note:

- Any individual employed by a company or institution who would like to submit an offer in response to this Procurement Notice must do so in their individual capacity, even if they expect their employers to sign a contract with UNDP.
- Maximum size per email is **30 MB**.
- Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. Procurement Unit – UNDP Viet Nam will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants.
- After submitting proposal, bidder should send notification by email (without attachment) to: procurement.vn@undp.org informing that the bidder has submitted proposal. UNDP will not be responsible for the missing of proposal if the bidder does not send notification email to above address.

- Female consultants are encouraged to bid for this required service. Preference will be given to equally technically qualified female consultants.

2. Please find attached the relevant documents:

- [Term of References](#) (Annex I)
- [Individual Contract & General Conditions](#) (Annex II)
- [Reimbursable Loan Agreement](#) (for a consultant assigned by a firm) (Annex III)
- [Letter to UNDP Confirming Interest and Availability](#) (Annex IV)
- [Financial Proposal](#) (Annex V)

3. Interested individual consultants must submit the following documents/information (in English, PDF Format) to demonstrate their qualifications:

a. Technical component:

- Signed Curriculum Vitae
- Signed Letter to UNDP Confirming Interest and Availability
- Copy of 1-3 publications/writing samples on relevant subject.
- Reference contacts of past 4 clients for whom you have rendered preferably the similar service (including name, title, email, telephone number, address...)

b. Financial proposal (with your signature):

- The financial proposal shall specify a total lump sum amount in **US dollar for International Consultant** including consultancy fees and all associated costs i.e. airfares, travel cost, meal, accommodation, tax, insurance etc. – see format of financial offer in Annex V.
- Please note that the cost of preparing a proposal and of negotiating a contract, including any related travel, is not reimbursable as a direct cost of the assignment.
- If quoted in other currency, prices shall be converted to the above currency at UN Exchange Rate at the submission deadline.

4. Evaluation

The technical component will be evaluated using the following criteria:

International Consultant

Evaluation Criteria		Maximum Points
1	Law degree (Master Degree and above is preferable). Master degree: 140 points PhD degree: 200 points	200
2	A minimum of 10 years of working experience in criminal justice;	300
3	experience working on international human rights law at the international level is an asset;	100
4	Proven track record in conducting comparative legal research ;	300
5	Good writing skills in English (one sample published research in English to be submitted);	100
Total		1,000

A two-stage procedure is utilized in evaluating the submissions, with evaluation of the technical components being completed prior to any price proposals being opened and compared. Interview with the shortlisted candidates will be conducted at the technical evaluation stage.

The price proposal will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical component. The technical component is evaluated on the basis of its responsiveness to the Term of Reference (TOR). Maximum 1000 points will be given to the lowest offer and the other financial proposals will receive the points inversely proportional to their financial offers. i.e. $S_f = 1000 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the submission under consideration.

The weight of technical points is 70% and financial points is 30%.

Submission obtaining the highest weighted points (technical points + financial points) will be selected subject to positive reference checks on the consultant's past performance.

5. Contract

“Lump-sum” Individual Contract will be applied for freelance consultant (Annex II)

“Lump-sum” RLA will be applied for consultant assigned by firm/institution/organization (Annex III)

Documents required before contract signing:

- International consultant whose work involves travel is required to complete the courses on BSAFE which is the new online security awareness training and submit certificate to UNDP before contract issuance.

Note: In order to access the courses, please go to the following link: <https://training.dss.un.org>

- Full medical examination and Statement of Fitness to work for consultants from and above 65 years of age and involve travel. (This is not a requirement for RLA contracts).
- Release letter in case the selected consultant is government official.

6. Payment

UNDP shall effect payments to the consultant by bank transfer to the consultant's bank account provided in the vendor form upon acceptance by UNDP of the deliverables specified the TOR.

Payments are based upon outputs, i.e. upon delivery of the products specified in the TOR.

If two currencies exist, UNDP exchange rate will be applied at the day UNDP instructs the bank to effect the payment.

7. Your proposals are received on the basis that you fully understand and accept these terms and conditions.

ANNEX I



TERMS OF REFERENCE

International Individual Consultant

Name of service:	search study: Application of alternatives to capital punishment and the right to self-defense in criminal proceedings: International experiences and recommendations for Viet Nam.		
Project:	The EU Justice and Legal Empowerment Program in Vietnam (EU JULE)		
Reporting to:	The Governance and Participation Unit of UNDP		
Duty Station:	Home-based	Travel Required:	No
Duration of Assignment:	From December 2021 to March 2022		
Start Date:	12/18/2021	End Date:	3/31/2022

I. BACKGROUND & PROJECT DESCRIPTION

Legal and judicial reform has been an important national strategy of Viet Nam, which has been highlighted in five consecutive Resolutions of National Party Congress of the Communist Party, from the 9th to the 13th.¹ In particular, the Resolution of the 13th National Party Congress underscores the need to improve the legal systems, mechanisms and policies “in order to strongly promote socialist democracy and sovereignty of the people.”² This direction, coupled with the long-standing orientation of the country’s leadership to international integration,³ prompts the need for Viet Nam to improve the existing regulations while learning international legal principles and practices that Viet Nam have not applied. The need to look outwardly to learn from international experiences is more pressing with rules that might enable Viet Nam to fulfill their commitments in the field of criminal justice, under a number of relevant UN Human Rights mechanisms, including the Universal Periodic Review (UPR), the Convention against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR).

Alternatives to capital punishment (death penalty):

¹ <https://www.quanlynhanuoc.vn/2019/12/12/day-manh-cai-cach-tu-phap-nham-xay-dung-va-hoan-thien-nha-nuoc-phap-quyen-xa-hoi-chu-nghia-3/>

² Resolution of the 13th National Party Congress, Para 5

³ <https://www.tapchiconsan.org.vn/web/guest/quoc-phong-an-ninh-oi-ngoai1/-/2018/821539/ve-hoi-nhap-quoc-te-va-tham-gia-tien-trinh-toan-cau-hoa-cua-viet-nam.aspx>

The death penalty is a punishment that deprives a person of their life when that person has been convicted – by a legally established court as regulated by a legal system – of having committed a serious crime, which should be strictly applied for crimes of extreme gravity, involving intentional killing.⁴

There is a growing global consensus that the death penalty needs to be removed to ensure the effective implementation of the right to life under the Article 3 of the Universal Declaration on Human Rights and the Article 6 of the ICCPR. Currently, more than 70% of countries in the world have abolished capital punishment in law or practice.⁵

During the third review cycle under UPR that took place in 2019, Viet Nam accepted a number of recommendations on the death penalty by several members states, to which, Viet Nam stated its “firm commitment that the application of this punishment in reality will strictly be in conformity with the ICCPR [...]”.⁶ Under ICCPR, Viet Nam also received priority recommendations by the Human Rights Committee to further narrow the application of the punishment as well as to consider introducing a moratorium on the use of the sentence in both law and practice.⁷ To realise this commitment, in 2019, the Government of Viet Nam issued two major national instruments on human rights – the National Master Plan for the Implementation of the Third Cycle UPR's Recommendations (UPR Master Plan) and the National Master Plan for the Implementation of the ICCPR and Recommendations of the UN Human Rights Committee (ICCPR Master Plan). Both plans delegate tasks on state agencies to explore the possibility of further limiting the scope of application of the death penalty.

Narrowing the scope of application of capital punishment requires alternative sanctions, inter alia, which was one of the key recommendations that the study “On the possibility of Viet Nam ratifying the Second Optional Protocol to the ICCPR aiming at the Abolition of the Death Penalty” provided to Viet Nam. This study was produced by UNDP and the Ministry of Justice under the EU Justice and Legal Empowerment Programme. In particular, the Study suggests Viet Nam to:

“Conduct further studies on alternative sanctions, on the basis of Vietnam's practices and international experience, to provide relevant recommendations while ensuring humanity in Viet Nam's criminal policy and the requirements to fight against crime.”⁸

Despite recommendations by research, experts and the international community, as well as strong commitments of Viet Nam to realise these recommendations, alternatives to

⁴ EU JULE Policy Brief No 9

<https://www.vn.undp.org/content/vietnam/en/home/library/democratic_governance/Ratifying-the-2nd-Optional-Protocol-to-the-ICCPR-on-the-Abolition-of-the-Death-Penalty-EUJULE-Policy-Brief-No9.html> (accessed on October 27, 2021)

⁵ <<https://deathpenaltyinfo.org/policy-issues/international>> (accessed on October 15, 2021)

⁶ Report of the Working Group on the Universal Periodic Review*, Viet Nam, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/41/7/Add.1, para. 13

⁷ CAT Concluding Observations

⁸ Study: On the possibility of Viet Nam ratifying the Second Optional Protocol to the ICCPR aiming at the Abolition of the Death Penalty

<https://www.vn.undp.org/content/vietnam/en/home/library/democratic_governance/on-the-possibility-of-viet-nam-ratifying-the-second-optional-pro.html>

the capital punishment that are feasible to apply in Viet Nam have not been studied adequately.

The right to self-defense

The revision of the Penal Code and Criminal Procedure Code in 2015 has been one of the highlights in the development of Viet Nam's criminal justice system. By incorporating adversarial principals and elements in to the criminal procedure, the Codes gives more rights to the accused and their defense counsel. One of the key elements of adversarial principle guaranteed by the Codes is the right to defense. The right to defense has two connotations: The right to self-defense and the right to be defended/represented by a defense counsel (a.k.a. the right to a lawyer).

Article 16 of the Criminal Procedure Code states that: "The accused has the right to defend himself, [or] having a lawyer or another person defend him/her". To enable this right, Article 16 puts competent agencies and persons conducting legal proceedings in charge to "notify, explain and ensure" that the accused's enjoyment in accordance with the provisions of the Code. As regard to the right to self-defense, even though the wordings of the Code clarifies the right and duty-bearer of such right, the Code and its guiding decrees do not elaborate further on enable conditions for an accused (including detainees) to exercise this right. The lack of accountability for creating enable conditions has posed a challenge in the enjoyment of the right in practice.

In responding to the gaps in literature on the mentioned issues, UNDP and the SPC commission two consultants to conduct a research study entitled: "Application of alternatives to capital punishment and the right to self-defense in criminal proceedings: International experiences and recommendations for Viet Nam." The two consultants include one international consultant (IC) and one national consultant (NC). Findings from this research project will inform the SPC's policy proposals to law-making bodies.

This activity is supported by the EU Justice and Legal Empowerment Programme (EU JULE), implemented by UNDP and UNICEF together with relevant State agencies. EU JULE is designed to strengthen the rule of law through a more reliable, trusted and better accessed justice system, and specifically to increase access to justice for women, children and those groups which face the greatest obstacles in using the justice system to invoke their rights.

This TOR is for International Consultant (IC)

II. OBJECTIVES

To produce a research study on international experiences and recommendations for Viet Nam, *from the human rights lens*, in two areas: alternatives to capital punishment and the right to self-defense.

III. SCOPE OF WORK

The successful consultant will be expected to be responsible for the following:

1. Deliverables & Implementation Timeline

Language of deliverables to be in English

No.	Deliverable	Estimated days to complete	Target due date
1	Outline of the research study	1	12/15/2021
2	Briefing notes on International human rights laws and standards on alternatives to capital punishment and the right to self-defense	3	12/20/2021
3	Briefing notes on practices in other countries in applying the alternatives to capital punishment and the right to self-defense – advantages and challenges	5	12/30/2021
4	Recommendations for Viet Nam based on (2) & (3) and notes provided by NC on Vietnamese laws and policies on the alternatives to capital punishment, and the rights to self-defense	2	1/2022
5	Editing draft research pre consultation workshop	1	1/2022
6	Attend and present at the consultation workshop (virtually via online platform)	1	2/2022
6	Revise the research post consultation workshop for submission.	2	3/2022
	Total	15	
<p>Final product:</p> <p>A research study in English, of maximum 40 pages that 1) examines international practices in the application of alternatives to capital punishment and the right to self-defense and its enabling conditions in criminal proceedings; and 2) provides recommendations for Viet Nam.</p>			

IV. DURATION OF ASSIGNMENT, DUTY STATION & EXPECTED PLACES OF TRAVEL

Estimated number of working days: 15 working days from 12/18/2021 to 3/31/2022.

Duty station: Home-based

Expected places of travel: NA

V. PROVISION OF MONITORING & PROGRESS CONTROL

IC is expected to work with NC on this assignment, under the monitoring of the Programme Officer in charge in the UNDP Governance and Participation Unit in order to deliver the final products as described in III – Scope of Work.

VI. ADMINISTRATIVE SUPPORT & REFERENCE DOCUMENTS

Administrative Support

The Supreme People's Court (SPC) will organise consultation workshop in collaboration with UNDP. Cost of the workshop to be borne by SPC

Reference Documents

N/A

VII. DEGREE OF EXPERTISE & QUALIFICATIONS

Qualifications	Law degree (Master Degree and above is preferable);
Relevant Professional Experience	A minimum of 10 years of working experience in criminal justice and/or international human rights law at the international level is an asset;
Other Competencies	Proven track record in conducting comparative legal research;
Language Requirements	Good writing skills in English (one sample writing report in English to be submitted);

VIII. PAYMENT TERMS

No.	Deliverables as indicated in Section IV	Due Date	Payment Amount
1	Outline of the research study	12/31/2021	30%
2	Pre-workshop draft of the research study	2/30/2022	40%
3	Final research study post workshop	3/31/2022	30%

IX. CONSULTANT PRESENCE REQUIRED ON DUTY STATION

☒ NONE ☐ PARTIAL ☐ INTERMITTENT ☐ FULL-TIME

X. EVALUATION CRITERIA

No.	Requirement	Points
1	Law degree (Master Degree and above is preferable); Master degree: 140 points PhD degree: 200 points	200

2	A minimum of 10 years of working experience in criminal justice; experience working on international human rights law at the international level is an asset;	300
		100
3	Proven track record in conducting comparative legal research ;	300
4	Good writing skills in English (one sample published research in English to be submitted);	100
	Total	1,000

Criteria for Evaluation of Proposal

Offers will be evaluated according to the Combined Scoring method – where the educational background and experience on similar assignments will be weighted at 70% and the financial proposal will weigh at 30% of the total scoring.

The applicant receiving the Highest Combined Score and meeting other requirements in the Procurement Notice will be awarded the contract.

Documents for Submission

Applicants will be expected to include the following along with their application:

Core Documents

Letter of Confirmation of Interest and Availability using the template provided by UNDP;

Current and complete CV in English;

01 similar **sample published research, preferably in criminal law or human rights law;**

Financial offer using the standard UNDP template.

ANNEX IV

OFFEROR'S LETTER TO UNDP CONFIRMING INTEREST AND AVAILABILITY FOR THE INDIVIDUAL CONTRACTOR (IC) ASSIGNMENT

Date _____

United Nations Development Programme

Dear Sir/Madam:

I hereby declare that:

- A) I have read, understood and hereby accept the Terms of Reference describing the duties and responsibilities of [*indicate title of assignment*] under the [*state project title*];
- B) I have also read, understood and hereby accept UNDP's General Conditions of Contract for the Services of the Individual Contractors;
- C) I hereby propose my services and I confirm my interest in performing the assignment through the submission of my CV which I have duly signed and attached hereto as Annex 1;
- D) In compliance with the requirements of the Terms of Reference, I hereby confirm that I am available for the entire duration of the assignment, and I shall perform the services in the manner described in my proposed approach/methodology which I have attached hereto as Annex 3 [*delete this item if the TOR does not require submission of this document*];
- E) I hereby propose to complete the services based on the following payment rate: [*please check the box corresponding to the preferred option*]:
 - ☐ An all-inclusive daily fee of [*state amount in words and in numbers indicating currency*]
 - ☐ A total lump sum of [*state amount in words and in numbers, indicating exact currency*], payable in the manner described in the Terms of Reference.
- F) For your evaluation, the breakdown of the abovementioned all-inclusive amount is attached hereto as Annex V;
- G) I recognize that the payment of the abovementioned amounts due to me shall be based on my delivery of outputs within the timeframe specified in the TOR, which shall be subject to UNDP's review, acceptance and payment certification procedures;
- H) This offer shall remain valid for a total period of _____ days [*minimum of 90 days*] after the submission deadline;
- I) I confirm that I have no first degree relative (mother, father, son, daughter, spouse/partner, brother or sister) currently employed with any UN agency or office [*disclose the name of the relative, the UN office employing the relative, and the relationship if, any such relationship exists*];

J) If I am selected for this assignment, I shall *[please check the appropriate box]:*

- ☐ Sign an Individual Contract with UNDP;
- ☐ Request my employer *[state name of company/organization/institution]* to sign with UNDP a Reimbursable Loan Agreement (RLA), for and on my behalf. The contact person and details of my employer for this purpose are as follows:

K) I hereby confirm that *[check all that applies]:*

- ☐ At the time of this submission, I have no active Individual Contract or any form of engagement with any Business Unit of UNDP;
- ☐ I am currently engaged with UNDP and/or other entities for the following work:

Assignment	Contract Type	UNDP Business Unit / Name of Institution/Company	Contract Duration	Contract Amount

- ☐ I am also anticipating conclusion of the following work from UNDP and/or other entities for which I have submitted a proposal:

Assignment	Contract Type	Name of Institution/ Company	Contract Duration	Contract Amount

L) I fully understand and recognize that UNDP is not bound to accept this proposal, and I also understand and accept that I shall bear all costs associated with its preparation and submission and that UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

M) *If you are a former staff member of the United Nations recently separated, please add this section to your letter:* I hereby confirm that I have complied with the minimum break in service required before I can be eligible for an Individual Contract.

N) I also fully understand that, if I am engaged as an Individual Contractor, I have no expectations nor entitlements whatsoever to be re-instated or re-employed as a staff member.

O) Are any of your relatives employed by UNDP, any other UN organization or any other public international organization?

YES ☐ NO ☐ If the answer is "yes", give the following information:

Name	Relationship	Name of International Organization

P) Do you have any objections to our making enquiries of your present employer?

YES ☐ NO ☐

Q) Are you now, or have you ever been a permanent civil servant in your government's employ?

YES ☐ NO ☐ If answer is "yes", WHEN?

R) REFERENCES: List three persons, not related to you, who are familiar with your character and qualifications.

Full Name	Full Address	Business or Occupation

S) Have you been arrested, indicted, or summoned into court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for the violation of any law (excluding minor traffic violations)?

YES ☐ NO ☐ If "yes", give full particulars of each case in an attached statement.

I certify that the statements made by me in answer to the foregoing questions are true, complete and correct to the best of my knowledge and belief. I understand that any misrepresentation or material omission made on a Personal History form or other document requested by the Organization may result in the termination of the service contract or special services agreement without notice.

DATE: _____

SIGNATURE: _____

NB. You will be requested to supply documentary evidence which support the statements you have made above. Do not, however, send any documentary evidence until you have been asked to do so and, in any event, do not submit the original texts of references or testimonials unless they have been obtained for the sole use of UNDP.

Annexes *[please check all that applies]:*

☐ CV shall include Education/Qualification, Professional Certification, Employment Records /Experience

GUIDELINES FOR CV PREPARATION

WE REQUEST THAT YOU USE THE FOLLOWING CHECKLIST WHEN PREPARING Your CV:

Limit the CV to 3 or 4 pages

NAME (First, Middle Initial, Family Name)

Address:

City, Region/State, Province, Postal Code

Country:

Telephone, Facsimile and other numbers

Internet Address:

Sex, Date of Birth, Nationality, Other Citizenship, Marital Status

Company associated with (if applicable, include company name, contact person and phone number)

SUMMARY OF EXPERTISE

Field(s) of expertise (be as specific as possible)

Particular development competencies-thematic (e.g. Women in Development, NGOs, Privatization, Sustainable Development) or technical (e.g. project design/evaluation)

Credentials/education/training, relevant to the expertise

LANGUAGES

Mother Tongue:

Indicate written and verbal proficiency of your English:

SUMMARY OF RELEVANT WORK EXPERIENCE

Provide an overview of work history in reverse chronological order. Provide dates, your function/title, the area of work and the major accomplishments include honorarium/salary.

References (name and contact email address) must be provided for each assignment undertaken by the consultant that UNDP may contact.

UN SYSTEM EXPERIENCE

If applicable, provide details of work done for the UN System including WB. Provide names and email address of UN staff who were your main contacts. Include honorarium/salary.

UNIVERSITY DEGREES

List the degree(s) and major area of study. Indicate the date (in reverse chronological order) and the name of the institution where the degree was obtained.

PUBLICATIONS

Provide total number of Publications and list the titles of 5 major publications (if any)

MISCELLANEOUS

Indicate the minimum and maximum time you would be available for consultancies and any other factors, including impediments or restrictions that should be taken into account in connection with your work with this assignment.

Annex V

FINANCIAL OFFER

Having examined the Solicitation Documents, I, the undersigned, offer to provide all the services in the TOR for the sum of VND for National Consultant and USD for International Consultant

This is a lump sum offer covering all associated costs for the required service (fee, meal, accommodation, travel, taxes etc).

No.	Description	Quantity	Unit Rate	Total
1	Consultancy fee			
2	Out of pocket expenses			
2.1	Travel			
2.2	Per diem			
2.3	Full medical examination and Statement of Fitness to work for consultants from and above 65 years of age and involve travel – (required before issuing contract). *			
2.4	Others (pls. specify).....			
2.5	VAT** if applicable (in case your company signs the contract)			
	Total			

* *Individual Consultants/Contractors who are over 65 years of age with assignments that require travel and are required, **at their own cost**, to undergo a full medical examination including x-rays and obtaining medical clearance from **an UN-approved doctor** prior to taking up their assignment.*

**** Individual Consultants/Contractors who request their employer to sign a Reimbursable Loan Agreement (RLA) with UNDP for their behalves are reminded to add the Value Added Tax into the total lump sum of the Financial Offer if applicable.**

I undertake, if my proposal is accepted, to commence and complete delivery of all services specified in the contract within the time frame stipulated.

I agree to abide by this proposal for a period of 120 days from the submission deadline of the proposals.

Dated this day /month of year

Signature

(The costs should only cover the requirements identified in the Terms of Reference (TOR). Travel expenses are not required if the consultant will be working from home).