**TERMS OF REFERENCE**

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| --- | --- |
| Service | Study on the right to access to justice for persons with disabilities in the areas of employment and vocational training in accordance with the Convention on the Rights of Persons with Disabilities  |
| Consultancy | One national consultant – team leader (23 working days)One international consultant – senior expert (12 working days)One national consultant – team member (13 working days) |
| Duty station: | Hanoi and home based |
| Expected Duration  | From June to November 2020 |
| Supervision: | The consultants will work closely with the Program Officer in charge at the UNDP Governance and Participation Unit and the Legal Department (LD) of Ministry of Labour, Invalids and Social Affairs (MOLISA) |

1. **BACKGROUND**

Access to justice encompasses people’s effective gateways to the formal and informal systems, procedures, information, and locations used in the administration of justice. It is an essential component of rule of law and a means for persons with disabilities (PWDs) to actively claim and exercise the entire range of rights provided in the [Convention on the Rights of Persons with Disabilities (CRPD).](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html)  Article 13 of the Convention specifically addresses access to justice, directing State parties to ensure effective access to justice for persons with disabilities on an equal basis with others.

Among countries ratifying the CRPD, Vietnam has shown some strong commitments to implement the Convention. The 2013 Constitution of Viet Nam enshrines the protection of people with disabilities in Articles 59 and 61. Various laws and policies passed by the government are set out to safeguard disability rights, such as the Labour Code, the Gender equality Law and the Law on Persons with Disabilities.

Despite these legislative efforts, PWDs often have limited access to justice even though they are of one of the primary beneficiaries of the national legal aid system. In Viet Nam, nearly 15% of the population live with some form of disability – an estimated 13 million people in total. By the end of 2016, over 60% of PWDs were in working age, in which 30% of them with the ability to work and 80% of this number to participate in economic activities in forms of self-employment or labor in their families. It is estimated that only less than 10% of PWDs have received vocational training.[[1]](#footnote-1) PWDs are one of the most marginalized groups among all vulnerable groups in Viet Nam, targeted for legal aid services, particularly in the areas of employment and vocational training. However, they are also one of the least likely groups to receive and benefit from legal aid services.

There is an alarming gap between the legal needs of PWDs and the actual services delivered to them by practitioners, especially in the area of employment and vocational training. Yet, little is known about the root causes of this gap, and what practical solutions should be brought forth to address it. In order to understand the gap, under the Justice and Legal Empowerment Programme funded by the European Union (EU JULE), the United Nations Development Programme (UNDP) and the Legal Department of the Ministry of Labour, Invalids and Social Affairs (MOLISA) commission a team of three consultants (2 national and 1 international) to conduct a study on the right to access to justice for persons with disabilities in the areas of employment and vocational training in accordance with the Convention on the Rights of Persons with Disabilities (hereinafter referred to as the study).

1. **OBJECTIVES OF THE ASSIGNMENT**
* To analyze the key factors that can contribute to the equal access to justice for PWDs in the areas of employment and vocational training, including but not limited to: a sound legal framework/system on accessible legal services, adequate awareness and attitudes of both right-holders and duty–bearers, available legal information in forms that are suitable and assessible to diverse types of disabilities; well-trained legal aid providers on sensitivity and skills serving PWDs; available and competent job consulting agencies/consultants for workers with disabilities; available support equipment and infrastructure that enable workers with disabilities to perform their job, etc.;
* To assess the efficiency of legal remedies available to PWDs facing discrimination in the area of employment and vocational training
1. **SCOPE OF WORK**

The activity will be carried out by 02 national consultants and 01 international consultant commissioned by UNDP in cooperation with the MOLISA Legal Department. The consultants will work together as a team. The Legal Department, MOLISA will support the consultants to conduct the study.

1. National consultant – Team leader (23 working days):

*General tasks (2 days):*

* Take ultimate responsibility for the study;
* Take the lead in technical discussions and responsibility for the whole process of the assignment with UNDP and the Legal Department of MOLISA;
* Cooperate closely with the team members, the Legal Department of MOLISA and UNDP during the process of completing the assignment;

*Specific tasks (21 days):*

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| No | Tasks | Time allocation  |
|  | Desk review on the topic  | 4 |
|  | Draft the outline of the report; share the drafts timely for inputs/comments; | 2 |
|  | Building questionnaires for Focus Group Discussions;Review questionnaires prepared by consultant-team member for interviews Facilitate two group discussions in Ha noi, which will be organized by the MOLISA Legal Department to collect information and data from target groups, including: (1) representatives of relevant functional government agencies, and (2) representatives of organizations/groups or associations working with PWDs; representatives of some PWD groups.Analyse information and data collected from 2 group discussions | 3 |
|  | Using the analysis prepared by the international consultant to identify international standards of and best practices; draw experiences from at least 3 countries that have similar justice system to Viet Nam; and lessons for Viet Nam; | 1 |
|  | Develop the draft report based on the inputs from other consultants; share the draft report with UNDP and the Legal Department MOLISA;Incorporate inputs from UNDP and the Legal Department MOLISA; | 7 |
|  | Prepare and deliver presentations on the draft report at the one day consultation workshop in Ha noi organized by the Legal Department MOLISA;Meeting with the international consultant and the team member to finalize the report  | 2 |
|  | Finalize the report to submit to UNDP and the Legal Department MOLISA based on the inputs from consultants and the workshop participants. | 2 |
|  | **Total** | **21 days** |

1. National consultant – Legal expert (13 working days):

*General tasks (1 day):*

* Work closely with team leader; stay in close touch with the Legal Department MOLISA and UNDP during the process of completing the assignment.

*Specific tasks (12 days):*

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| No | Tasks | Time allocation  |
|  | Provide inputs/comments to the report outline prepared by the team leader  | 0.5 |
|  | Conduct an analysis of policies and legal framework of the right to access to justice for PWDs in the areas of employment and vocational training in Viet Nam and the implementation status, in accordance with CRPD requirements | 4 |
|  | Develop and finalise the interview questionnaire based on the inputs from the national-team leader, UNDP and the MOLISA Legal Department;Conduct interviews with 10 respondents at two group discussions to collect information and data, including: (1) representatives of relevant functional government agencies, and (2) representatives of organizations/groups or associations working with PWDs; representatives of some PWD groups; Analyse interview results and share with the team leader |  3 |
|  | Provide inputs/comments to the draft report; | 1.5 |
|  | Attend the consultation workshop organised by the MOLISA Legal Department; deliver brief presentation to summarise pre-workshop feedback on the draft report and responses; document all feedback and share with consultant teamMeeting with the international consultant and the team member to finalize the report | 2 |
|  | Support the team leader incorporate feedback into the draft report; | 1 |
| **Total** | **12 days** |

1. International consultant – Senior legal expert (12 working days):

The international consultant is expected to collaborate with the national consultants to:

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| No | Tasks | Time allocation  |
|  | Conduct an analysis of key components of the right to access to justice for PWDs under the CRPD and how this right is implemented in the areas of employment and vocational training; draw experiences from other countries with clear reasons for selection, special focus should be given to countries that have similar justice system to Viet Nam; share with the national consultant team | 3 |
|  | Provide advice on what type of data to collect on access to justice for PWDs in the areas of employment and vocational training. | 0.5 |
|  | Provide inputs to the report outline; provide inputs to the draft report prepared by the team leader before the consultation workshop; | 3.5 |
|  | Attend the consultation workshop (remotely), present results of the analysis mentioned aboveAttend the meeting with the national team after the consultation workshop to finalize the report | 2 |
|  | Edit/proofread the final English report prepared by the national consultants.  | 3 |
|  | **Total**  | **12 days** |

1. **METHODOLOGY**

The methodology for the study should include:

* A desk review on the right of access to justice in the areas of employment and vocational training for persons with disabilities in Viet Nam in accordance with the Convention on the Rights of Persons with Disabilities
* Qualitive data collection through FGD & interviews with some groups of PWDs and representatives of agencies providing relevant legal services for PWDs.
1. **FINAL PRODUCTS**

01 study report in Vietnamese and English, maximum 10,000 words (equivalent to 20-25 pages) excluding annexes, which includes:

* Executive summary of 1500 words max (highlighting key findings, research methodologies and purposes);
* Analysis of the policies, legal framework and implementation status of the right to access to justice for PWDs in the areas of employment and vocational training in Viet Nam in accordance with CRPD requirements;
* Analysis of the key factors that can contribute to the equal access to justice for PWDs in the areas of employment and vocational training;
* An analysis of data collected from two group discussions and qualitative interviews with different groups of PWD and relevant stakeholders (including service providers and national government officers). The pool of interviewees needs to be representationally diverse in terms of disability types, gender, geographical location and professions;
* Identifications of challenges arising from the implementation of legal regulations; and the causes for those challenges.
* Concrete evidence-based policy recommendations to ensure equal and effective access to justice for PWDs in the areas of employment and vocational training.

The contract becomes effective upon both parties signing the contract. The consultants are expected to provide services specified in this TOR from June to November 2020. The team, in collaboration with the the Legal Department (MOLISA) and UNDP Vietnam, shall deliver the deliverables as below:

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| **Outputs** | **Descriptions** | **Expected Results** | **Deadlines** |
|  | Submission of the work plan and outline  | Approved workplan, outline  | July 2020 |
|  | Analysis of the policies, legal framework and implementation status of the right to access to justice for PWDs in the areas of employment and vocational training in Viet Nam in accordance with CRPD requirements Analysis of the key factors that can contribute to the equal access to justice for PWDs in the areas of employment and vocational training | Results of the analysis of the right of access to justice for PWDs Results of the analysis on the key factors to be shared with and endorsed by UNDP and MOLISA | July 2020 |
|  | Develop questions for FGDs and interviews; conduct interviews and FGDs to collect information and inputs from some groups of PWDs and relevant stakeholders to assess status of the access to justice of PWDs in the areas of employment and vocational training in conformity with the requirements set forth in the Convention on the Rights of Persons with Disabilities | Approved questions;  | August 2020 |
|  | First draft of the report using results of desk review and data collected from the interviews  | Draft report  | August - September 2020 |
|  | Present the draft study report at consultation workshop | Power point presentations |
|  | Final study report based on the comments from UNDP and consultation workshop | Final report approved and submitted.  | October – November 2020 |

1. **DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL**

The assignment is expected to last less than 6 months.

The consultants shall work as a team on this assignment and deliver final outputs as described in Section 5 above.

Duty station: For national consultants: Hanoi and home based

For international consultant: Home based

1. **DEGREE OF EXPERTISE AND QUALIFICATIONS**

**National consultant – team leader**:

* Master’s degree in law, social sciences or related fields;
* Proven track record of conducting research and data analysis
* A minimum of 10 years working experience in the area of law and disability; experience working on the right to employment and vocational training, human rights and international human rights treaties is highly desirable;
* Excellent writing skills in both Vietnamese and English languages; one writing sample in English and one in Vietnamese to be submitted;
* Working experience with government officials and NGOs on disability rights is an advantage.

**International technical consultant**

* Master’s degree in law, social sciences or related field;
* A minimum of 7 years working experience in the area of law and human rights; Having knowledge of disability rights is required; Knowledge about the Vietnamese context is an advantage;
* Excellent writing skills in English language; two writing samples in English to be submitted;
* Proven experience working with governments, inter-governmental organisations, civil society, academics, UN system and international and regional development partners

**National consultant – team member:**

* University degree in law, social sciences or related fields;
* Have knowledge and minimum of 5 years of work experience in the area of law and disability, employment and vocational training; human rights and international human rights treaties is highly desirable;
* Proven track record of conducting research and data analysis with providing one writing sample in Vietnamese;
* Working experience with government officials, NGOs and international organizations
1. **REFERENCE DOCUMENTS AND ADMINISTRATIVE SUPPORT**
* The MOLISA Legal Department will share available data, reports, research with the consultant team
* UNDP will support the assignment through providing letters of introduction, coordinating the team to work with the MOLISA Legal Department and the international consultant. However, all administrative support required for this assignment (including interpretation, translation of the report into Vietnamese/English, translation of the questionnaire into Vietnamese/English, etc.) must be provided by the contractors except as otherwise agreed between UNDP and the consultants.
* The MOLISA Legal Department will organize two group discussions and support the national consultants to conduct FGDs, interviews and connect them with relevant stakeholders where possible.

1. **CONTRACT PAYMENTS**
* 30% of the contract value will be paid after UNDP receives and verifies outputs 1 and 2;
* 40% of the total contract value will be paid after UNDP receives and verifies outputs 3, 4, and 5;
* 30% of the total contract value will be paid after UNDP receives and verifies output 6.
1. **EVALUATION CRITERIA**

***National consultant – Team leader:***

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| **Consultant(s)’ experiences/qualification related to the services** |
| 1.1           | Master’s degree in law, social sciences or related fields; | 200 |
| 1.2     | Proven track record of conducting research and data analysis;A minimum of 10 years working experience in the area of law and disability; experience working on the right to employment and vocational training, human rights and international human rights treaties is highly desirable; | 400 |
| 1.3 | Excellent writing skills in both Vietnamese and English languages; one writing sample in English and one in Vietnamese to be submitted; | 300 |
| 1.4 | Working experience with government officials and NGOs on disability rights is an advantage. | 100 |
| Total |   |   |   | 1000 |

***International consultant****:*

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| Consultant(s)’ experiences/qualification related to the services |
| 1.1           | Master’s degree in law, social sciences or related field; | 200 |
| 1.2     | A minimum of 7 years working experience in the area of law and human rights; Having knowledge of disability rights is required; Knowledge about the Vietnamese context is an advantage | 400 |
| 1.3 | Excellent writing skills in English language; two writing samples in English to be submitted;  | 300 |
| 1.5 | Proven experience working with governments, inter-governmental organisations, civil society, academics, UN system and international and regional development partners | 100 |
| Total |   |   |   | 1000 |

***National consultant – team member***:

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| Consultant(s)’ experiences/qualification related to the services |
| 1.1           | University degree in law, social sciences or related fields | 200 |
| 1.2     | Have knowledge and minimum of 5 years of work experience in the area of law and disability, employment and vocational training; human rights and international human rights treaties is highly desirable; | 400 |
| 1.3 | Proven track record of conducting research and data analysis with providing one writing sample in Vietnamese; | 300 |
| 1.4 | Working experience with government officials, NGOs and international organizations | 100 |
| Total |   |   |   | 1000 |

1. Report on “Supporting activities for persons with disabilities in Vietnam”, National Committee for People with Disabilities, 2016 [↑](#footnote-ref-1)