

## TERMS OF REFERENCE

### CONSULTANCY TO CONDUCT A RAPID NEEDS ASSESSMENT

### ON RESTORATIVE JUSTICE WITH CHILDREN IN CONTACT WITH THE LAW

#### TERM OF REFERENCE:

**Location:** Romania

**Title:** i-RESTORE 2.0 – Consultancy for conducting a rapid needs assessment on restorative justice with children in contact with the law

**Period of the consultancy:** 09 January – 28 February 2023

**Duration of the consultancy:** 10 working days

#### 1. Presentation of Terre des hommes

Terre des hommes (Tdh), founded in 1960, is an independent, neutral and impartial Swiss organisation committed to bringing meaningful and lasting change to the lives of children and youth, especially to those most **exposed to risks**. We strive to improve their well-being and ensure the effective application of their rights as defined by the Convention on the Rights of the Child and other relevant human rights instruments.

Since **1996**, Tdh has been working on juvenile justice in numerous countries across the globe. In **2020, 93,400 children**, young people and members of their communities were supported in access to justice.

Built on **26 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.

Our work in the field of **Access to Justice**:

- **Promotion of non-custodial measures** - Custody may only be used as a last resort, as it jeopardises the development and reintegration of children. Tdh works in collaboration with professionals in criminal justice, especially with the police, prosecutors and judges to make sure that the necessary legislation is implemented and to improve the application of non-judicial procedures and alternatives to imprisonment. In this way children and adolescents in conflict with the law, who have often committed only minor offences, can benefit from a justice that is adapted to them. They have access to non-custodial measures, procedures for the non-violent resolution of conflicts and to reintegration.
- **Improvement of custody conditions** - The rights of children in conflict with the law are often unrecognised. We work together with the staff of the detention centres and

with training institutions for justice professionals to alleviate the negative impact of deprivation of liberty on children and young people. Our goal is to reduce violence and to lower recidivism, but also to ensure that young people in custody are treated with dignity and prepared for their reintegration.

- **Improving prevention and reintegration services** - We work with families, organisations and community leaders to create a caring and supportive environment in the community. This should enable mitigating the violence against or by the young people and to reintegrating them in society.
- **Supporting collaboration in the context of legal pluralism** - Our teams promote coordination between the people concerned in formal justice, both lay and religious, and the people concerned in traditional justice. Our aim is to encourage the recognition of positive practices of **restorative justice** and a decision-making that defends the best interests of the child, in particular in communities where systems of traditional justice are the most effective.

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

According to Thematic Area 4 on Child-Friendly Justice of the European Union (EU) Strategy on the Rights of the Child (2020-24)<sup>1</sup>, the European Commission (EC) recommends to Member States to “develop robust alternatives to judicial action: from alternatives to detention, to the use of restorative justice and mediation” and “contribute to training of justice professionals on the rights of the child and child friendly justice”<sup>2</sup>. Similarly, the recommendations formulated by the **2020 EC Forum on the Rights of the Child** specifically refer to “[bringing in] community-based, peer-to-peer models for diversion and alternatives to detention and restorative justice models”<sup>3</sup>.

i-RESTORE 2.0 builds on the lessons learnt from “i-RESTORE - Protecting Child Victims through Restorative Justice” (EC project 847345, Sept 2018- Nov 2021).<sup>4</sup> What clearly emerged from the work conducted with children, practitioners and policy makers in the past two years in Romania, Greece and Albania is that merely developing models of restorative justice would have no impact on children if this did not go along with ensuring that these models were effectively *accessible for them, girls and boys alike*. According to the Council of Europe (CoE) Recommendation CM/Rec(2018)<sup>5</sup> concerning restorative justice in criminal matters, adopted on 3 October 2018, “restorative justice should be a generally available service. The type, seriousness or geographical location of the offence should not, in themselves, and in the absence of other considerations, preclude restorative justice from being offered to victims and offenders”. To advocate for this, consortium partners European Forum on Restorative Justice (EFRJ) and Terre des hommes (Tdh) published in November 2020 a joint position paper<sup>7</sup> to

<sup>1</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/child-friendly-justice\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/child-friendly-justice_en)

<sup>2</sup> EU strategy on the rights of the child COM/2021/142 final, available at <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142>, accessed on 4 August 2021.

<sup>3</sup> Report on the 13th European Forum on the rights of the child, available at

[https://ec.europa.eu/info/sites/default/files/scic\\_child\\_forum\\_2020\\_conference\\_report\\_v7.pdf](https://ec.europa.eu/info/sites/default/files/scic_child_forum_2020_conference_report_v7.pdf), accessed on 4 August 2021.

<sup>4</sup> <https://tdh-europe.org/our-work/i-restore-protecting-child-victims-through-restorative-justice/7143>

<sup>5</sup> Rule 18, Recommendation CM/Rec(2018) [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808e35f3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3)

influence the EU Strategy on the Rights of the Child, in which they particularly recommended to: “Ensure the **accessibility and availability of restorative justice programmes at all stages** of criminal justice proceedings including diversion and after care” and “**Raise awareness among child justice actors and community members** on the benefits of restorative justice for children.”

**i-RESTORE 2.0 project** (2022-2024) builds on the **i-RESTORE project** (2019-2021), which focused on promoting the use of restorative justice in cases involving child victims of crime and strengthening the capacities of justice professionals. As a result of this project, i-RESTORE 2.0 was drafted to go a step further and create accessible quality restorative justice processes for children in contact with the law.

i-RESTORE 2.0 seeks in particular to:

- **Build the capacities** of national practitioners to address issues related to the rights of child victims and children suspected and/or accused of crime when involved in restorative justice processes
- **Increase knowledge** and exchange of learning among EU justice actors about access of child victims and children suspected and/or accused to high quality restorative justice processes
- **Empower child** victims and children suspected and/or accused of crime to play a meaningful role when involved in restorative justice processes
- **Raise awareness** among multidisciplinary actors and the community about accessibility and its obstacles, to high quality restorative justice processes for child victims and children suspected and/or accused of crime

Part of the Working Package 3 of the project, two **twinning arrangements between Social Insurance Board in Estonia and Tdh Romania and between Restorative Justice Netherlands and Tdh Hellas** will be created. The proposition is to twin a partner more specialised on restorative justice (RJN in Netherlands, SIB in Estonia) with a country more specialised on child participation methodologies (Tdh in Romania, Tdh in Greece). The content of both twinning agreements will be developed based on the rapid needs assessment conducted by the experts mandated in each of the countries. They will make recommendations for practice improvement.

### 3. Objectives of the consultancy

The general objective of the consultancy is to provide an overview of the needs, gaps and strengths in the implementation of restorative justice practices in cases involving child victims and child suspected or accused of a crime, and of child participation methodologies in Romania, to make recommendations for the implementation of the i-RESTORE twinning arrangements.

In this sense, the expert is expected to:

- **Conduct a desk review** of relevant documents about restorative justice with children in Romania (including, but not limited to, some documents to consider in advance<sup>6</sup>)
- **Conduct a 3-days visit in Romania** and meet with different stakeholders (minimum 5) and collect data, based on the questionnaire in **annex 1**. Some of these stakeholders could include, but not limited to:

<sup>6</sup> [romanian\\_research\\_report\\_irestore\\_en\\_101220.pdf \(tdh.ro\)](#);  
[european\\_research\\_report\\_irestore\\_en\\_101220.pdf \(tdh.ch\)](#)  
[qa\\_restorative\\_justice.pdf \(childhub.org\)](#)

- Craiova Detention Center
- DGASPC Dolj (Craiova)
- IGPR Crime Investigation Unit Bucharest
- Bucharest Probation Service
- Meetings (or a focus group) with judges, prosecutors, lawyers, mediators
- **Draft a needs assessment report in English** based on the desk review and on the meetings carried out with stakeholders in Romania. The report should be approx. 20 pages (this is the joint report Romania and Estonia, meaning that the Romanian inputs should round for an approx. 8-9 pages); it should cover the **Accessibility of Restorative Justice practices** for children in contact with the law in Romania, and include:
  - Executive summary of 1 page
  - Main needs, gaps and strengths in the implementation of Restorative Justice practices for children in contact with the law in Romania, through:
    - Relevant legal framework
    - Relevant authorities and stakeholders involved
    - Relevant practices
  - Main needs, gaps and strengths in existing methodologies on child participation for children in contact with the law, through:
    - Institutional framework
    - Promising practices
    - Child-led evaluation
  - Recommendations based on the needs and gaps identified, and proposed actions for the twinning arrangement
  - Conclusions
- **Coordinate with the Estonian expert's conclusions (during an online meeting)**; the Estonian expert will also conduct an assessment visit in Estonia on the same subject; the final needs assessment report will combine results in both countries; the leading partner combining such results will be SIB in Estonia
- **Integrate feedback in the Romanian part of the assessment report** received from the i-RESTORE 2.0 Technical Advisory Board, as well from the i-RESTORE 2.0 Consortium, and provide final draft
- **Provide recommendations for the roadmap for twinning arrangements** that include methodologies/tools to be used for review of practices; 50 pages roadmap report; drafting the 50 pages roadmap report will be led by SIB in Estonia and one or two online meetings with them will take place to help finalise the roadmap.

### 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**.

#### 4. Roles and responsibilities

To ensure the smooth implementation of the mandate, the consultant will be in regular contact with the i-RESTORE 2.0 Project Manager, Cecilia Popa, and with the Coordinator in Estonia, Annegrete Johanson.

This will include face-to-face meetings, communication via email, and through Skype/Teams discussions. Other members of the i-RESTORE 2.0 Consortium will participate in strategic discussions 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.

#### 5. Deliverables & Timeline

All deliverables should be produced in **English** and within the timeframe.

a. Desk review	1 day
b. Conduct 3 days visit in Romania (minimum 5 interviews)	3 days
c. Draft a needs assessment report based on the interviews and on the desk review	3 days
d. Coordinate with the Estonian expert's conclusions and under the SIB's leadership, consolidate the needs assessment report	1 day
e. Integrate 2 rounds of feedback in the assessment report	1 day
f. Provide recommendations for the roadmap for twinning arrangements	1 day
<b>Total number of days</b>	<b>10 days</b>

#### 6. Consultant profile

- Advanced degree in the field of law or criminology, or equivalent with strong research and analysis component
- Proven experience in conducting national and international-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 in Romanian and English
- 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
- Knowledge of juvenile justice projects and networks in the home country and in the Europe region constitute an asset

#### 7. Budget and resources

The consultant is required to mention in its application a daily rate in EUR, based on a total amount of 10 days required to carry out the consultancy (see section 5 above). All other costs

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related to the consultancy (national travel, accommodation, other logistical support) will be covered by Tdh.

The payment will be issued in two parts:

- 40% upon submission of third deliverable (deliverable C) under section 5
- 60% upon acceptance of the final deliverable (deliverable F) under section 5

## 8. How to apply

All candidates should please send the following documents to [cecilia.popa@tdh.ch](mailto:cecilia.popa@tdh.ch) by **20 December 2022**:

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

Please include “i-RESTORE 2.0 project, your name and surname” in the subject line of the application email.

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

*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.

### Annex 1

This questionnaire is about accessible quality restorative justice processes for children in contact with the law. We are speaking with you as you are at the frontline of many matters related to children’s access to justice through policy development / as you are working with restorative approaches or for child-friendly justice.

The general objective of this meeting is to provide a clear picture on how restorative justice in cases involving child victims or child suspected or accused of a crime is implemented in Romania, if the case, or how is child participation happening in Romania, and make recommendations for practice improvement, based as well on the results of the similar exercise that will take place in Estonia. The conclusions of this meeting will feed into the roadmap / action plan based on which different activities will take place, such as a study visit in Estonia, online meetings with counterparts in Estonia, webinars and so on.

1. Have you been involved in any restorative processes or activities with children in contact with the law? If so, could you please provide examples?
  - 1.1. What would you consider to be the gaps on this matter?
  - 1.2. What would you consider to be the strengths on this matter?

2. If not, what would be the knowledge you have about RJ in cases involving children in contact with the law? And how could this applicable in your day-to-day work?
  
3. Can you please review what are the legislative frameworks that governs your work?
  - 3.1. What would you consider to be the gaps?
  - 3.2. What would you consider to be the strengths?
  
4. What are the authorities / professionals with whom you cooperate in your day-to-day work? Please explain.
  - 4.1. What would you consider to be the gaps in your day-to-day cooperation with third parties?
  - 4.2. What would you consider to be the strengths in your day-to-day cooperation with third parties?
  
5. Do you have developed at your institutional level a methodology to work with children, particularly those in contact with the law?
  - 5.1. If so, is it reflected in your institutional framework?
  - 5.2. If not, how exactly does it function?
  - 5.3. How is this methodology implemented in practice? Any promising practices?
    - 5.3.1. What would you consider to be the gaps of this practice?
    - 5.3.2. What would you consider to be the strengths of this practice?
  - 5.4. Are children involved in the evaluation of this methodology-driven intervention?
    - 5.4.1. How exactly, if so?
    - 5.4.2. Why not, if not?

- 5.5. What would you consider to be the gaps in having a methodology-driven intervention?
- 5.6. What would you consider to be the strengths in having a methodology-driven intervention?
6. If you have no methodology-driven intervention, based on what is your intervention operated?
7. Is there anything else you would like to mention, and we did not touch upon, and it's important for us to know?