

Terms of Reference

Expert in supporting the Ministry for Digitalisation of North Macedonia in Preparing law for Archive Material, and related bylaws

1. Background

The Regional School of Public Administration (ReSPA) is a regional organization established in 2010 as a joint initiative financed by European Commission and Western Balkans (WB) administrations. It is managed and governed by five ReSPA Members: Albania, Bosnia and Herzegovina, North Macedonia, Montenegro and Serbia, while Kosovo* is beneficiary. ReSPA's purpose is to assist governments in the region to develop better public administration, public services and overall governance systems for their citizens and businesses and prepare for the European Union membership.

Since its inception, ReSPA, as an international organization and a key regional endeavour in Public Administration Reform, has contributed to capacity-building and networking through regional training, workshops, conferences, seasonal schools, and on-demand support mechanisms, peering and the development of regional research materials. ReSPA establishes close cooperation with Ministers, senior public servants and heads of units in its Members. ReSPA also works in partnership with the European Union, specifically Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR), other regional actors such as OECD/SIGMA and Regional Cooperation Council (RCC), as well as agencies and civil society organizations.

The European Commission (EC) provides directly managed funds to support ReSPA activities in line with the EU accession process. Currently, ReSPA is implementing the fifth EC Grant Contract "Support to the Regional School of Public Administration for implementing PAR Agenda and facilitating EU accession process in the WBs" which is active as of January 2023.

ReSPA works primarily through regional networks which operate at three levels: Ministerial, Senior Officials, and thematic groups of experts and senior practitioners. More specifically, the Programme Committee is composed of the senior civil servants representing ministries responsible for the Public Administration reform, and institutions in charge of the European Integration process, and four regional thematic groups: (1) Policy planning, better regulation and coordination of Centre of Government, (2) European integration and accession negotiations; (3) Human Resources Management and Professional Development; (4) Service Delivery (digitalization and quality management).

*This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

2. Problem statement and description of the assignment

The Ministry for Digital Transformation is mandated to execute duties pertaining to the advancement and promotion of the digital transformation, inclusive of the integrated information and communication network, databases, as well as the secure interconnection and exchange of information. It is also tasked with overseeing the development of infrastructure concerning state authorities, legal entities, and other individuals expressly entrusted by law to exercise public powers. The Ministry oversees developing and implementing national ICT systems that are used for digital transformation of the country.

To foster the establishment and advancement of a comprehensive business solution catering to electronic records and archival operations, we advocate for the development of a unified platform. This platform aims to serve as a centralized point for communication, ensuring that all entities within the public sector have a singular point of interaction.

In the contemporary landscape, there is an imperative to construct an integrated system that addresses both electronic record management and archival processes. This endeavor is positioned as a modern alternative to conventional paper document workflows. The proposed solution should align with regulatory standards, governing the creation, movement, preservation, access, and utilization of electronic documents. This strategic approach is indispensable for cultivating an efficient and effective public sector, ultimately benefiting citizens, and bolstering economic interests.

The Ministry for Digital Transformation is spearheading a transformative initiative known as the "Smart MK" program, aimed at revolutionizing governance through comprehensive reforms and digitalization across all levels of the state. The primary objectives include fostering efficient administration, redefining communication with public administration, and delivering swift and easily accessible services to citizens and the economy through the digitization of processes.

The genesis of the Document Management System can be traced back a decade, conceptualized with the objective of establishing a unified ICT system to enhance the functioning of public institutions. This system envisions the complete electronic processing of documents and the implementation of processes within public institutions. Recognizing the challenge posed by individual institutions procuring equipment and adapting to disparate software systems, the Ministry, as the designated authority for digital transformation, has formulated a forward-thinking solution. A conceptual framework has been devised for the creation of a comprehensive National Electronic Archival and Records Management System. This platform is envisioned to serve as a common ground, enabling all public institutions to seamlessly access and utilize the Electronic Archival and Records.

In essence, the Ministry's initiative not only strives to bring about technological advancements but also aims to foster a collaborative and interconnected digital environment that transcends organizational boundaries, promoting a more efficient and responsive public sector.

In that regard, a Concept at the Government level for establishing and developing a business solution for the functioning of utilize the aims to establish a single platform was proposed, in which all entities in the public sector will have a single point of communication.

To advance the development of the Concept for Establishing a Platform for Electronic Archival and Records (“Concept”) work, MDT recognizes the need for expert support. The expertise provided will play a role in shaping and refining the platform, ensuring its effectiveness, and giving legal ground for it.

The proposed activity is fully in line with Public Administration Reform Strategy 2023 – 2030, in particular A.4.1.3.6 which is expected to contribute to better institutional and legal framework for applying information and communication technologies, uptake of digital government services and electronic exchange of data and documents.

3. Tasks and responsibilities

Expert support will be dedicated to collaborating closely with the coordinators of the working group and relevant units in the ministry responsible for formulating the Law for Archival Matters and associated bylaws. This effort aims to articulate and provide a legal framework for the establishment of the proposed Platform. The working group comprises civil servants from diverse institutions, forming an intersectoral team. MDT is actively coordinating with this working group, and participants include representatives from the State Archive, Ministry for Culture and Tourism, State Administrative Inspectorate, and the Agency for Protection of Personal Data.

The proposed regulatory changes are intended to be grounded in the insights and recommendations derived from pertinent documents and consultations. These adjustments will be underpinned by well-supported plans, ensuring a robust foundation for the development and implementation of the new legal framework.

The final results of the expert’s support is preparation of the final draft Law on archiving and related bylaws. To this end, the expert should collaborate with the IT expert by ResPA and relevant working group in the country.

The activity is divided into three key phases: **Inception**, **Implementation**, and **Finalization**.

In the **Inception Phase**, experts will review existing regulations and infrastructure, align the Draft Law on Archiving with the project concept, and compile feedback for the implementation phase. In the **Implementation Phase**, they will analyze existing systems and procedures, refine legal drafts based on consultations, and design the program for the National Archival and Records Management System, ensuring alignment with technical requirements.

Finally, in the **Finalization Phase**, experts will ensure full compliance with EU standards, finalize the legal framework, develop a consolidated draft law, and create an action plan, along with a detailed Regulatory Impact Assessment and training materials. Throughout, experts will collaborate to ensure the legal and technical aspects of the platform are seamlessly integrated.

The Expert shall, indicatively, perform the following tasks:

1. Legal Landscape Analysis (3 Days)

The experts will begin with an initial review of the project documentation, focusing on relevant legal frameworks. This will involve a preliminary legal analysis of the potential challenges and regulatory considerations surrounding the **National Electronic Archival and Records Management System (NEARMS)**. The goal is to understand the legal context and identify key legal barriers or requirements that may impact the system's development and implementation.

2. Regulatory Compliance Review for NEARMS (3 Days)

During these days, the focus will shift to analyzing national and international regulations governing electronic archival systems. This will include identifying legal requirements concerning data privacy, security, and accessibility. Experts will collaborate with the technical team to ensure that NEARMS aligns with these regulatory requirements, ensuring compliance with all necessary legal standards.

3. Legal Framework Development for Archive Material (3 Days)

Experts will research and analyze existing laws related to archive materials, including relevant bylaws and regulations. They will draft a comprehensive legal framework that ensures compliance with **EU standards**, as well as existing national and international laws on the handling and preservation of archival materials. Collaboration with authorities will be necessary to ensure that these frameworks align with broader legal standards.

4. Stakeholder Consultation and Alignment (4 Days)

This period will be dedicated to consulting with key stakeholders, including government officials, legal authorities, and other relevant parties. The goal is to gather insights and expectations for both NEARMS and the management of archive materials. Legal strategies will be aligned with the broader project vision, ensuring that stakeholders' needs are addressed and that the legal framework supports the overall project goals.

5. Contractual Framework Development for NEARMS (5 Days)

During these days, experts will work on drafting the **contractual agreements** for various stakeholders involved in NEARMS, including government agencies, technology providers, and end-users. These contracts will clarify the legal obligations and protections of each party. The legal team will review and negotiate these contracts to ensure that they meet legal standards and fully support the project's goals.

6. Contractual Framework Development for Archive Material (4 Days)

In this phase, the focus will be on extending the contractual frameworks to cover the acquisition, management, and use of **archive materials**. Experts will ensure that these

contracts meet licensing requirements and account for long-term preservation needs, ensuring compliance with all necessary legal obligations surrounding archive materials.

7. Preservation and Access Policies for Archive Material (4 Days)

Experts will draft policies related to the **preservation** and **access** of archive materials. These policies will need to align with legal requirements for electronic documents, focusing on long-term storage and ease of access. Collaboration with relevant authorities will be required to finalize and gain approval for these policies.

8. Final Review and Documentation (4 Days)

In the final stage, experts will conduct a thorough review of all legal project documentation to ensure consistency and alignment with regulatory requirements. A final **legal documentation package** will be prepared, including a summary report of all legal activities, ensuring that both NEARMS and archive material management adhere to legal standards and project objectives.

4. Necessary qualifications of the required expert

The expert needs to have **diverse but compatible experience in working for or with the public sector**, preferably on positions/assignments and tasks related to capacity development, knowledge management, e-learning, organizational aspects, management, development communication, etc. The expert also needs to have extensive experience in the former Yugoslav administrations and an understanding of local legal regulations related to electronic data processing and digitalization, particularly in the design and implementation of electronic systems, eLearning, and digitalization of processes.

More specifically, the expert shall possess the following profile:

Qualifications and skills:

- At least Master degree in Public Administration, Quality Management, Legal Science, Development Communication, Economics, or related fields;
- PhD will be considered an asset.

General professional experience:

- At least 10 (ten) years of experience working in or with the public sector and related assignments/positions;
- In-depth knowledge of national legal frameworks (e.g., data protection, archives, and records management) as well as international regulations like the EU's GDPR, eIDAS, or similar frameworks is essential;
- Experience in drafting and reviewing legal frameworks, policies, or laws especially in the context of government or public sector projects.
- Consulting or Advisory Experience:

Specific professional experience:

- At least 5 (five) years of relevant professional experience in the implementation of Quality Management instruments in Public Administration institutions, capacity development, organizational aspects, management, development communication or similar;
- Experience in advising government bodies, legal institutions, or private companies on compliance, legal infrastructure, or technology-related legal matters.

Skills:

- Excellent written and oral communication skills in English;
- Fluent in local languages (south-Slavic);
- Ability to write clear and coherent guidance documents;
- Ability to prepare and deliver well-structured presentations;
- Ability to work with people of different nationalities, religions and cultural backgrounds.

5. Timing and Location

The assignment foresees work from home, office, online meetings, and meetings in Skopje, North Macedonia. The assignment is expected to be performed tentatively from **January 2025 – May 2025**.

6. Remunerations

The assignment foresees engagement of up to **30 (thirty) expert days in the amount of up to 7.500 EUR**.

The payment will be done in one installment upon completion of the assignment. The final outputs will be subject to approval from the Ministry for Digitalization and ReSPA before the execution of the payment.

Note: No other costs will be covered apart from the expert cost per day. The expert cost per day comprises the expert's fee per day and (if needed) a lump sum for covering related costs, which include travel, accommodation, local transport, meals, and other incidentals. ReSPA and the expert shall agree before signing the Service Contract on the rate of the daily fee.

7. Reporting and Final Documentation

The Expert will be requested to deliver the following documents before the payment is conducted:

Outputs

- Legal documentation package including a summary report of all legal activities, ensuring that both NEARMS and archive material management adhere to legal standards and project objectives;
- Comprehensive documentation;
- Meeting notes and summaries from discussions with relevant parties, highlighting any additional insights, clarifications, and resolutions to ambiguities.

Documents required for payment

- Invoice (signed original);
- Timesheets (signed original);
- Final brief report on the conducted assignment, milestones and challenges.