



Open Call for Consulting Services

Subject:	Support the RCC Secretariat to map the best practices in SEE economies on cross-border mediation and provide recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE
Title:	Technical assistance for a regional assessment on ‘Mapping the best practices existing in SEE to effectively promote the use of cross-border mediation in solving civil and commercial disputes’
RCC Department:	Political Department
Starting Date:	10 July 2023
Reporting to:	RCC Secretariat
Duration:	10 July 2023 – 30 August 2023
Eligible:	Respective consulting companies, individual consultants
Application Deadline:	3 July 2023
Reference Number:	035-023

I. PURPOSE

The overall objective of the consultancy is to map the best practices in SEE economies on cross-border mediation and identify most suitable practices to be replicated by other economies which can also serve as a good model in setting the minimum regional quality standards on mediation.

To this end, a consultant will be engaged to assist Regional Cooperation Council (RCC) to map the best practices in SEE economies on the use of cross-border mediation and identify most suitable ones to be replicated by other economies. Based on such best practices, the assessment should also identify common principles in areas relevant to mediation and provide recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE. This assessment will pave the way for development of a Guideline on minimum regional quality standards on mediation.

II. BACKGROUND

The Regional Cooperation Council is working with the Associations of Mediators, Ministries of Justice, Judicial Training Institutes and other relevant stakeholders to promote and encourage the use of alternative dispute resolution with a focus on mediation, and provide

professional forums to exchange experiences, lessons learned, challenges and best practices with a view to promote and strengthen mediation as a tool for extrajudicial dispute resolution.

Use of alternative dispute resolution mechanisms, including mediation, remains low in South East Europe, particularly in the Western Balkans (WB), despite it being an effective way of addressing the steady rise in the number of litigation cases. The EU annual reports report little progress in Western Balkans region in introducing alternative dispute resolution mechanisms. Additionally efficiency of judicial system needs to be further enhanced while lengthy and costly court procedures remain a cause for concern all over the region, making access to justice more difficult. Mediation would therefore provide a desirable alternative which contributes to reducing the caseload in courts and exercising the right to fair trial within a reasonable time.

In 2020, RCC has prepared the working document “Mediation practices in Western Balkans¹”, a regional assessment of mediation practices existing in the WB region and alignment with EU acquis of the legal and institutional framework, including for cross-border mediation. The study on ‘Promoting Cross-Border Mediation in resolving civil and commercial disputes in Western Balkans²’ was prepared in 2021 with the aim to identify the potential of mediation to facilitate cross-border trade and set the grounds for a regional boost of mediation in resolving civil and commercial disputes in WB, also in the context of the Common Regional Market (CRM). Both studies prepared and the annual regional conferences on mediation that RCC organises have increased the need for a strategic regional framework to promote the use of cross-border mediation in SEE, especially in civil and commercial matters.

In this context, the set of best practices will aim to translate the EU and SEE mediation policy into practice by raising awareness and providing guidance for mediators and relevant stakeholders, including public at large, on the benefits of using mediation in settling cross-border disputes.

II DESCRIPTION OF RESPONSIBILITIES

Objectives and scope of the assignment

Cross-border mediation as an alternative dispute resolution method with foreign elements may be efficient only when domestic legislation is properly aligned with EU and international standards that would allow its performance under the best conditions. The necessary preconditions for cross-border mediation in SEE are already in place. The respective legislation on mediation foresees the necessary procedural standards for cross-border mediation, and most of the SEE economies are part of international treaties or agreements in civil law matters. However, cross-border mediation remains an underused tool, without gaining the deserved recognition, especially in the sphere of commercial disputes.

The demand for quicker and less expensive procedures is leading to a new use of mediation, especially in connection with cross-border commercial disputes. This gains particular importance especially in the WB in the context of CRM and the related intensification of trade and mobility of citizens. Therefore, a comprehensive set of best practices on the resolution of cross-border disputes by methods alternative to classic justice, taking into consideration relevant EU directives and CoE guidelines, and especially the best practices from EU member

¹https://www.rcc.int/download/docs/Mediation%20Practices%20in%20Western%20Balkans_.pdf/1dc4eaa450f8194501ca5bcec3fe1c06.pdf

² https://www.rcc.int/download/docs/2021-09-PCBM_final.pdf/2842f8bce8cd32b2aa1517429f7b9a1a.pdf

states, is of high interest to the practitioners and the citizens. It is also an excellent opportunity to familiarize the public with benefits of mediation, and also make the initiatives taken by SEE economies in this regards better understandable and more visible.

The assessment will map the best practices in SEE economies on cross-border mediation and identify those that are suitable to be replicated by other economies and serve as a model for setting minimum regional quality standards on mediation. Based on such best practices, the assessment should also identify common principles in areas relevant to mediation and provide recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE. This assessment will pave the way for development of a Guideline on minimum regional quality standards on mediation.

Specific Tasks

The tasks specified herewith are:

1. Get familiarized with RCC studies and the recommendations of RCC annual regional conferences on mediation;
 2. Conduct a comprehensive desk research on:
 - Identifying the best practices on cross-border mediation in SEE that can serve as a model for setting the minimum regional quality standards on mediation;
 - Provide the official number of backlog of court cases in each SEE economy, based on relevant identifiable sources (CEPEJ statistics or other relevant reports);
 - The potential of cross-border mediation in addressing bilateral trade disputes in general with a particular focus on civil and commercial matters;
 - Identify common principles in areas relevant to mediation and explore options for regional harmonised use of mediation, and identify potential benefits;
 3. Complete interviews³/questionnaires with mediators, representatives of business community, representatives of judiciary and other relevant stakeholders;
 4. Prepare the final report including:
 - A specific set of rules for conducting efficient cross-border settlement discussions and the related recommendations for actions needed at the regional level;
 - Specific recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE;
- Present the findings at the RCC annual regional conference on mediation to be organised in fall 2023.

The applicant is expected to have good knowledge of other relevant projects, activities and interventions in the area to avoid overlapping.

³ Questionnaires to be prepared and shared online with respective stakeholders.

Lines of Communication

The experts will report to the RCC Secretariat during the entire duration of the contract. Comments and recommendations provided by the RCC should be duly incorporated in the final version of the deliverables.

Timeframe

The total duration of the engagement will be from 10 July 2023 to 30 August 2023.

	Deliverables	Due date
1	Conduct a comprehensive desk research on: <ul style="list-style-type: none">• Identifying the best practices on cross-border mediation in SEE that can serve as a model for setting the minimum regional quality standards on mediation;• Provide the official number of backlog of court cases in each SEE economy, based on relevant identifiable sources (CEPEJ statistics or other relevant reports);• The potential of cross-border mediation in addressing bilateral trade disputes in general with a particular focus on civil and commercial matters;• Identify common principles in areas relevant to mediation and explore options for regional harmonised use of mediation, and identify potential benefits.	30 July 2023
2	Complete online interviews/questionnaires with mediators, representatives of business community, representatives of judiciary and other relevant stakeholders.	30 July 2023
3	Consult with RCC regarding the consolidated first draft of the report	15 August 2023
4	Prepare the final report including: <ul style="list-style-type: none">• A specific set of rules for conducting efficient cross-border settlement discussions and the related recommendations for actions needed at the regional level;• Specific recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE.	30 August 2023
5	Present the findings at the RCC annual regional conference on mediation.	Fall 2023

III COMPETENCIES

Expert Qualifications:

Criteria related to the experts delivering the service

Education:	<ul style="list-style-type: none">▪ University or advanced degree in law or an area directly related to the subject of work
Experience:	<ul style="list-style-type: none">▪ Minimum of 5 years of relevant experience in Law, Mediation, Judicial Cooperation, and EU Integration;▪ Good knowledge of the SEE region, regional and judicial cooperation instruments, EU Integration, and relevant regional and bilateral agreements, documents, initiatives and strategies relevant to mediation;▪ Proven analytical skills and ability to conceptualise and write concisely and clearly;▪ Proven communication and presentation skills and ability to work in an environment requiring liaison and collaboration with multiple actors, including mediators, representatives of governments, judiciary, business, and other stakeholders.
Language requirements:	<ul style="list-style-type: none">▪ Fluency in written and spoken English, as the official language of the RCC;▪ Knowledge of other RCC languages is desirable.
Other:	<ul style="list-style-type: none">▪ N.A.

Core Values

- Demonstrates integrity and fairness by modelling RCC values and ethical standards;
- She/He is independent and free from conflicts of interest in the responsibilities defined by the Terms of Reference;
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.

Core Competencies

- Demonstrates professional competence to meet responsibilities and post requirements and is conscientious and efficient in meeting commitments, observing deadlines and achieving results;
- Result-oriented; plans and produces quality results to meet the set goals, generates innovative and practical solutions to challenging situations;

- Communication: Excellent communication skills, including the ability to convey complex concepts and recommendations clearly;
- Team work: Ability to interact, establish and maintain effective working relations in a culturally diverse team;
- Ability to establish and maintain productive partnerships with regional and national partners and stakeholders.

IV QUALITY CONTROL

The expert should ensure an internal quality control during the implementing and reporting phase of the assignment. The quality control should ensure that the draft reports and deliverables comply with the above requirements and meet adequate quality standards before sending them to stakeholders for comments. The quality control should ensure consistency and coherence between findings, conclusions and recommendations. It should also ensure that findings reported are duly substantiated and that conclusions are supported by relevant judgment criteria.

The views expressed in the report will be those of the contractor and will not necessarily reflect those of the Regional Cooperation Council. Therefore, a standard disclaimer reflecting this will be included in the reports. In this regard, the expert may or may not accept comments and/or proposals for changes received during the above consultation process. However, when comments/proposals for changes are not agreed by the expert, she/he should clearly explain the reasons for her/his final decision in a comments table.

V. APPLICATION RULES

The application needs to contain the following:

- Technical Offer;
- Financial Offer.

Technical Offer

For companies:

- Company profile including a brief description (up to 2 pages) of the company;
- Copy of Company's Registration Certificate (in case of consulting companies);
- Financial records - company's balance sheet and profit-and-loss statement for the past 2 years (only in case of a bidding of consulting companies);
- CV of an expert, outlining relevant knowledge and experience as described in the Terms of References, along with contact details of referees;
- An outline work programme of a maximum of 5 pages describing the main issues, sources of information to be used, timeline and methodology. The work programme should include the initial outline of the content of the study;
- List of references for relevant activities implemented over the past years demonstrating relevant experience in the subject matter;
- Application Submission Form (Annex I);
- Signed Statements of Availability (Annex II).

For individual consultants:

- CV of an expert, outlining relevant knowledge and experience as described in the Terms of References, along with contact details of referees;
- An outline work programme of a maximum of 5 pages describing the main issues, sources of information to be used, timeline and methodology. The work programme should include the initial outline of the content of the study;
- List of references for relevant activities implemented over the past years demonstrating relevant experience in the subject matter;
- Application Submission Form (Annex I);

Financial Offer (Free format)

The financial offer should reflect the following:

- All figures should be expressed in EUR;
- VAT amount, if applicable, should be presented.

NOTE:

When preparing the financial offer, the applicant should take into account the following:

- Use a free format for the Budget providing the Global Price for the work to be provided.
- Maximum budget should not exceed EUR 9.600.
- When preparing the financial offer, the applicant should take into account that the fee rates should be broadly consistent with those applicable in the region.

Submission of applications:

Applications need to be submitted by 3 July 2023, by 17:00 Central European Time to the following address ProcurementforRcc@rcc.int

Please make sure that the application is submitted in two separate folders one containing Technical Offer and the other Financial Offer. The documents should be submitted in a form of copies of the originals.

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VI. EVALUATION RULES:

- The consultancy will be awarded to the highest qualified bidder based on the relevance of skills and expertise to this assignment;
- The applications are evaluated following these criteria:

EVALUATION GRID	Maximum score
A. Technical Offer (A.1+A.2+A.3)	100
A.1. Work experience, references list: Relevant work experience; evidence of other contracts of the size comparable to that of the tender; experience with clients comparable to the Contracting Authority.	35
A.2. Quality and professional capacity of the consultant(s): CV(s) satisfy the criteria set forth in the Terms of Reference, education and experience demonstrate professional capacity and experience required.	35
A.3 Quality of the concept note: An outline of work programme describing the main issues, information, data sources, research and analytical tools to be employed by the author, as well as the timeline.	30
B. Financial Offer/ lowest price has maximum score	100

Score for offer X =

A: [Total quality score (out of 100) of offer X / 100] * 80

B: [Lowest price / price of offer X] * 20

In addition to the results of the technical and financial evaluation, a competency-based interview will be held with the selected bidder.

Information on selection of the most favourable bidder

The RCC Secretariat shall inform candidates and bidders of decisions reached concerning the award of the contract as soon as possible, including the grounds for any decision not to award a contract for which there has been competitive tendering or to recommence the procedure.

Standard letter of thanks for participation to unsuccessful bidders shall be sent within 15 days after the contract is signed with the awarded bidder.

The candidates and bidders wishing to receive a feedback may send a request within 15 days after receipt of the standard letter of thanks.

The request may be sent to the e-mail address ProcurementforRcc@rcc.int or to the address of the RCC Secretariat:

Regional Cooperation Council Secretariat
Attention to: Administration Department
Building of the Friendship between Greece and Bosnia and Herzegovina
Trg Bosne i Hercegovine 1/V
71000 Sarajevo
Bosnia and Herzegovina

Appeals procedure

Bidders believing that they have been harmed by an error or irregularity during the award process may petition the RCC Secretariat directly. The RCC Secretariat must reply within 15 days of receipt of the complaint.

The appeal request may be sent to the e-mail address ProcurementforRcc@rcc.int or to the address of the RCC Secretariat:

Regional Cooperation Council Secretariat
Attention to: Administration Department
Building of the Friendship between Greece and Bosnia and Herzegovina
Trg Bosne i Hercegovine 1/V
71000 Sarajevo
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ANNEX I:**APPLICATION SUBMISSION FORM****REF: 035-023 Open Call for Consultancy Services**

Subject: Support the RCC Secretariat to map the best practices in SEE economies on cross-border mediation and provide recommendations for a regional boost of mediation in resolving civil and commercial disputes in SEE

One signed copy of this Application Submission Form must be supplied.

1 SUBMITTED by:

	Name(s) and address(es) of the bidder submitting this tender
Full Company Name or Name of the individual consultant	

2 CONTACT PERSON (for this Call)

Name	
Surname	
Address	
Telephone	
Fax	
e-mail	

3 **DECLARATION**

[Company Name or Name of the Individual Consultant] _____ hereby declares that we have examined and accepted without reserve or restriction the entire contents of the Open Call for Consultancy.

And we are not in one of the following situations:

- (a) Bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) Have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
- (c) Have been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

- (d) Have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;
- (e) Have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity.
- (f) Are civil servants or other agents of the public administration of the RCC Participants, regardless of the administrative situation, excluding us from being recruited as experts in contracts financed by the RCC Secretariat.

We offer to provide the services requested in the open call for consultancy on the basis of supplied documentation subject of this call, which comprise our technical offer and our financial offer.

Name and Surname	
Signature	
Date	

